HOUSE OF REPRESENTATIVES—*Tuesday, May 22, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, as we view our lives with their opportunities and disappointments, we are aware of those that have special need of our prayers and intercessions. We remember those whose deep concerns may be known only to themselves and another few, and we pray that Your abiding spirit will bless them in any anxiety or apprehension. May Your love, O God, that surrounds us and renews us each day, be with all Your people now and evermore. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from California [Mr. FAZIO] will please come forward and lead the House in the Pledge of Allegiance.

Mr. FAZIO led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive requests for 1-minute statements, limited to five Members on each side. Additional 1-minute requests will be received at the end of the legislative business today.

"KINDER AND GENTLER" MEANS FREE LEGAL REPRESENTATION FOR GENERAL NORIEGA

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

Mr. FAZIO. Mr. Speaker, General Noriega is in the news again.

For 10 years, the Republican administration declared war on the one program we have to provide legal services for the poor.

In budget after budget, Ronald Reagan tried to kill the Legal Services Corporation and deny working Americans their right to legal representation.

When Congress rejected his proposals, he appointed a board hostile to the Corporation's existence.

The "kinder and gentler" Bush administration has proposed deep cuts in legal services, and today's news may reveal why:

They needed the money to provide legal assistance to the Panamanian drug lord and money launderer, Manuel Noriega.

Does this mean we provide legal aid for the most notorious criminals while ignoring the needs of working Americans whose only crime is seeking equal justice under the law?

Manuel Noriega has discovered what kinder, gentler means to him. And now we know what it means to President Bush.

PROGRAM OF CLEAN COAL TECHNOLOGY MUST BE FAIR TO ALL

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

Mr. THOMAS of Wyoming. Mr. Speaker, this House is in the middle of great debates on clean air. I support H.R. 3030 and, in fact, am a sponsor of the Clean Air Act.

In at least one instance, however, we are trying to push and pull at the same time.

This Nation is undoubtedly dependant upon coal to meet its domestic demands for electricity, and to effectively compete in the international market.

To do so, we need to continue to develop new clean coal technologies.

Provisions of H.R. 3030 divert clean coal technology program funds for the purpose of subsidizing the cleanup of eastern powerplants as a reward for their not having done it themselves. And penalizing areas of the country who have taken positive steps to clean up their air.

These provisions will terminate Federal funding of numerous western and eastern clean coal technology projects, which were selected, although funds have not yet been fully obligated. This provision is unfair and a setback to our national efforts to develop a program of clean coal technology.

NORIEGA: PAY FOR YOUR DEFENSE OR GET A PUBLIC DEFENDER

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

Mr. TRAFICANT. Mr. Speaker, our Government has made yet another deal with Manuel Noriega. Uncle Sam recently said:

General, we will even pay your legal fees if you just keep your mouth shut. Because if the American taxpayers find out how much the CIA has paid you on their payroll to make drug peddlers and drug abusers and drug addicts out of our kids, they may even have a tax revolt in this country.

Furthermore, we will even go so far, we will even pay your legal fees. My god, don't say anything.

Mr. Speaker, this is a joke, an absolute joke. This is not even a CIA coverup any more. This is getting to be a buyout that is insulting the intelligence of the American people.

I say let General Noriega pay for that defense, or let him get a public defender, just like kids on the street. Who takes care of them? After all, General Noriega helped to make a lot of those drug addicts on the street.

THE AMERICANS WITH DISABILITIES AMENDMENT

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

Mr. BRENNAN. Mr. Speaker, as we vote today on the Americans With Disabilities bill, I think of a time when I was attorney general of my State of Maine and the then Gov. Jim Longley, came to my office to ask my advice on appointing a blind lawyer to be a trial judge.

I told the Governor, from my experience as a prosecutor and defense lawyer, it would be a mistake.

A blind lawyer could not do the job.

The Governor disregarded my advice and made the appointment anyway.

Six months later, I asked a number of lawyers and police officers how the blind judge was doing.

The answers were unanimous. He was doing a superb job. He was an excellent judge.

That was a big lesson for me in what people with disabilities can do.

And I believe that passage of the Americans With Disabilities Act will be a great lesson for more like me, all across this country.

I urge Members to vote for this very important civil rights bill.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

INSURANCE POLICY FOR AMERICA'S FLYING PUBLIC

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

Mr. LEWIS of Florida. Mr. Speaker, the Transportation, Aviation and Materials Subcommittee is today considering an FAA reauthorization bill I believe is an insurance policy for America's flying public.

The bill contains a variety of outstanding but long-overdue research programs. They include funding for The Aircraft Catastrophic Failure Prevention Research Act of 1990, a bill I wrote with the intent to end the flying experiment mentality at FAA.

Another research program in the FAA reauthorization is in drug and alcohol testing.

The incident earlier this year in which Northwest Airline pilots were allowed to fly while intoxicated is intolerable.

I have written a program that ultimately will protect the flying public from those pilots and air traffic controllers who abuse alcohol and drugs.

Other programs calling for improved airport security to avoid tragic losses like those at Lockerbie, Scotland, and for safe screws and fasteners, are contained in this bill that should have been written years ago.

MILITARY AID TO EL SALVADOR

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

Mr. AuCOIN. Mr. Speaker, we have tried to send messages to the Government and the military of El Salvador. We sent telegrams. We sent letters. We sent congressional delegations. We sent diplomats. We even sent DAN QUAYLE.

We demanded that they prosecute a few, just a few, of the gross human rights violations by the military and armed forces of that country. But El Salvador has not gotten the message.

We in America buy weapons for the Salvadoran army. We train them. We bring them to American bases. We train them in human rights. They took that training and those weapons, and this is what they did with them. They smashed into the Jesuit residence in San Salvador. They ordered six priests to lie face down on the grass, and then they opened fire.

□ 1010

Mr. Speaker, there is something desperately wrong in El Salvador, and the American people cannot understand why this country is aiding this butchery in this Government.

Today the House will vote on the Moakley-Murtha amendment to limit the war, to encourage peace negotiations, and to promote human rights, and I urge the House to support the Moakley-Murtha amendment.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, the Speaker has recently announced a new policy with regard to the use of the Speaker's lobby for the recording by reporters by electronic device of interviews with Members. There has been some concern expressed about that particular policy with regard to the use of the recorders in the Speaker's lobby since that is regraded as a part of the floor. In particular, the concern is that you could have the use of very sensitive microphones there that could record private conversations that might be taking place in the Speaker's lobby, or even record conversations at the periphery of the House floor itself that were not meant for public consumption.

I was wondering, under my parliamentary inquiry, whether the Speaker could give the Members some assurance with regard to this policy that the recording devices will only be used for individual interviews, and would not be permissible for use as a means of recording conversations in the Speaker's lobby as a whole.

The SPEAKER. The gentleman is correct.

Mr. WALKER. So in other words, under this policy, this is strictly aimed at giving only the ability to interview individual Members at the table, and those recording devices would not be permitted to be on during other times that the reporter might be in the lobby?

The SPEAKER. The answer to the gentleman's parliamentary inquiry is that the gentleman is correct.

The Chair will ask the Clerk to read into the RECORD the guidelines established by the Chair for the conduct of this trial period of radio interview.

The Clerk read as follows:

POLICY FOR RADIO INTERVIEW TABLE IN SPEAKER'S LOBBY

(1) No tape recorder will be allowed inside the Speaker's Lobby, other than at a table set aside for the purpose. This table is provided for interviews, which should not disrupt the decorum of the House. Tape recorders must be taken immediately to the designated table.

(2) No more than four tape recorders will be allowed at the table at any one time. Reporters will be allowed to take tape recorders to the table on a rotating pass system. Passes will be distributed by the Radio/TV Gallery staff, who may, at their discretion, set a time limit on the use of the pass.

(3) The table can only be used for interviews of Members during House sessions. It cannot be used during joint meetings or joint sessions.

(4) Failure to honor restrictions placed on news organizations by the House gallery staff, or failure to return radio table passes at the designated time, may result in revocation of a news organization's right to use said passes in the future.

(5) The radio table and the policy for its use is available on a trial basis through the August recess of 1990. At that time the table and its use will be reassessed.

(6) All rules for broadcast coverage in the House will be reevaluated by the Speaker's Office and the Executive Committee at the beginning of each Congress.

Mr. WALKER. I thank the Chair.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO SIT ON TODAY AND BALANCE OF WEEK DURING THE 5-MINUTE RULE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may be allowed to meet during the 5-minute rule on today and the balance of the week for consideration of H.R. 3950.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT OF DELAY OF VOTE ON S. 286, PETROGLYPH NATIONAL MONUMENT ESTABLISHMENT ACT OF 1990

The SPEAKER. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 286, as amended.

The Chair wishes to announce to the House that the voting machines are in some state of inoperation at the moment, and while the problem is being assessed by the technical staff, the Chair wishes to announce the delay of the vote on the pending suspension bill considered yesterday.

AMERICANS WITH DISABILITIES ACT OF 1990

The SPEAKER. Pursuant to House Resolution 394 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2273.

□ 1015

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, with Mr. MCNULTY (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, May 17, 1990, the

amendment offered by the gentleman from Texas [Mr. CHAPMAN] had been disposed of.

It is now in order to consider amendment No. 6 printed in House Report 101-488.

Mr. HASTERT. Mr. Chairman, I am the designee of the gentleman from Illinois [Mr. LIPINSKI].

Mr. HOYER. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN pro tempore. Without objection, the gentleman from Maryland is recognized for 5 minutes.

There was no objection.

Mr. HOYER. Mr. Chairman, I make this request because of the fact that the gentleman from Illinois [Mr. LIPINSKI] has not arrived. The gentleman from Illinois [Mr. HASTERT] is here, but the Committee on Public Works and Transportation has not arrived. Members were under the belief that we would start at 10:30, so perhaps the gentleman from Illinois [Mr. HASTERT] could discuss the amendment.

Mr. HASTERT. Mr. Chairman, if the gentleman will yield, will our rights be protected?

The CHAIRMAN pro tempore. The rights of the gentleman from Illinois will be protected and he may offer the amendment. The gentleman is correct.

Mr. HOYER. Mr. Chairman, I would make it clear to the gentleman from Illinois that this is only for the purpose of having all of the parties come over from their offices. They expected to start at 10:30, and we are a little early.

Mr. HASTERT. I would agree to that.

The CHAIRMAN pro tempore. The gentleman from Maryland is recognized.

Mr. HOYER. Mr. Chairman, as the Members know, we are now embarking on the last day of consideration of the Americans With Disabilities Act, an act which has been designed to make accessible all of the services and opportunities that most Americans take for granted, but which for 43 million Americans who are disabled are not as readily accessible as they ought to be.

I think we are going to see today when this bill comes to a final vote an overwhelming vote from both sides of the aisle. President Bush has been a very strong supporter of this legislation. Members of the other side of the aisle, both in committee and on the floor, have been strong supporters, and of course this side of the aisle has been very strong in its support of the Americans With Disabilities Act.

We will consider today three amendments. They are the last remaining amendments. Two deal with transportation issues and one deals with the issue of remedies.

The issues dealing with transportation will deal with commuter rail and will deal with local options. We will be in opposition to both of those amendments on this side of the aisle. The proponents of those amendments will obviously argue their merits.

I might add that the administration is not supporting the two transportation amendments but is very strongly supporting the amendment to be offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. Chairman, the Sensenbrenner amendment deals with the issue of remedies. That is to say, what remedies will be available to those whose civil rights are violated under the Americans With Disabilities Act. Will those remedies be the same as will be available to persons who are discriminated against because of race, color, national origin, religion or sex, or will they somehow be limited to specific rights? In particular, the issue will be whether or not we will leave to the 1990 civil rights bill the issue of what remedies will be available under title VII and under title II.

I would hope that we would reject the Sensenbrenner amendment. I would hope that we would reject it and leave for the Civil Rights Act of 1990 the determination of what remedies will be available to all persons or any person who has their civil rights discriminated against.

□ 1020

I believe that is the appropriate place with which to deal and not to specifically target the disabled for more limited remedies than others would have.

I believe, for the information of Members, that we will probably have 40 minutes on the Lipinski-Hastert amendment, 40 minutes on the Shuster amendment, and 1 hour on the Sensenbrenner amendment. If we do not get a rollcall, if the machine is not working, it might take a little longer, but I am hopeful we can conclude consideration of the Americans With Disabilities Act by 2 o'clock this afternoon.

We are looking forward to having all the members of the Committee on Public Works join us for this debate in the very near future. I know Mr. LUKEN and Mr. MINETA on our side will be speaking to these amendments as they are offered and that the Committee on Public Works and the Committee on Energy and Commerce are essentially, that is the majority side, is essentially in agreement; although as Mr. LIPINSKI will point out, the Committee on Public Works adopted the Lipinski amendment in committee. There was a jurisdictional question, and the Committee on Rules determined that the jurisdictional claim with respect to commuter rail in this instance lay with the Committee on Energy and Commerce.

So the basic document has the Energy and Commerce alternative, which is the alternative to which the Lipinski-Hastert amendment will apply.

Mr. MFUME. Mr. Chairman, will the gentleman yield?

Mr. HOYER. Mr. Chairman, I yield to the gentleman from Maryland.

Mr. MFUME. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just want to take a moment, recognizing that we have, on behalf of a great number of us who have coauthored the Americans With Disabilities Act, I want to express my gratitude to the gentleman from Maryland for his assistance on this issue, for his leadership, for seeing us through a very difficult process last week and for being here today to ensure that his amendment process does not weaken this bill as it is.

There are so many people who are affected by it, to say that it is not significant is to belittle, I think, the strong significance that this sort of civil rights legislation means to our Nation.

So I would simply thank the gentleman from Maryland [Mr. HOYER] for his leadership again and urge him, as I have throughout the course of this debate, to try to, as best he can, sensitize other Members as to how crucial this bill is.

Mr. HOYER. I thank the gentleman for his comments.

Mr. Chairman, I want to congratulate the gentleman for his expertise as he chairs the Americans With Disabilities Act consideration in the Committee of the Whole House on the State of the Union.

The bill, as we find it, is a very, very significant historical step for it in the extension of civil rights protection for the disabled.

As I said, I think it bears repeating that this has been largely a bipartisan effort.

The CHAIRMAN pro tempore (Mr. MCNULTY). It is now in order to consider amendment No. 6 printed in House Report No. 101-488.

AMENDMENT OFFERED BY MR. LIPINSKI

Mr. LIPINSKI. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LIPINSKI: IN SECTION 242(B), STRIKE PARAGRAPH (2) AND INSERT THE FOLLOWING:

(2) NEW COMMUTER RAIL CARS.—

(A) GENERAL RULE.—Subject to subparagraph (B), a public entity which operates a fixed route system providing commuter rail service does not have to purchase or lease readily accessible and usable commuter rail vehicles to meet the requirements of this title—

(i) if such entity is meeting the requirements of subsection (b)(1) of this section relating to one car per train being accessible to individuals with disabilities within five years of the enactment of this Act;

(ii) if such entity provides clear, concise, and adequate notice, in its stations, of which cars are so accessible and the location of such cars on its trains;

(iii) if, in any case in which additional services are offered in a nonaccessible car of a train, such entity makes reasonable provision to ensure that such services are available to individuals with disabilities in the accessible car or cars of such train.

(B) ADDITIONAL ACCESSIBLE CARS TO MEET DEMAND.—In order for a public entity to be exempt under subparagraph (A), in any case in which actual continuing demand for accessible service cannot be met by the public entity with one accessible car per train, the public entity must use additional accessible cars per train as may be necessary to meet such demand.

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. LIPINSKI] will be recognized for 20 minutes, and a Member opposed will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, do we have a Member opposed?

Mr. THOMAS A. LUKEN. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN pro tempore. The gentleman from Ohio [Mr. THOMAS A. LUKEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, my amendment pertains to the public transportation section of the bill, specifically to the accessibility provisions for commuter rail.

As you know, the Committee on Public Works and Transportation took a long look at the ADA, with the goal of providing complete accessibility while maintaining the highest level of public transit service possible. In the process of marking up the bill, the Committee on Public Works adopted an amendment of mine pertaining to commuter rail and accessibility.

As we all know, in the final version of H.R. 2273 the issue of commuter rail will be addressed by the provisions of the Committee on Energy and Commerce. My amendment would essentially reinstitute the Public Works and Transportation version.

A primary element of the ADA's provisions for public transportation is the concept that all new purchases of public transportation vehicles must be accessible to the disabled after the bill's enactment. Clearly, this should be the approach for most public transit. In order to provide access to an intercity bus system, one must provide access to each bus. This will be the eventual result of the ADA. However, regarding commuter rail, I think it is reasonable and rational to take a slightly different perspective. When considering access to a train of four or five cars, it is reasonable to view the train as a whole. Access to one car per train, provided that the accessible car has sufficient capacity for the disabled ridership, qualifies the train as accessible. My amendment simply views the commuter train as a whole, demands that at least one car be accessible, and then provides a guarantee that additional accessibility will be provided if one car per train does not meet ridership demand.

First, the amendment maintains the one car per train rule, mandating that at least one car must be accessible as soon as practicable but no later than within 5 years. Additionally, it demands that the position of the accessible car on the platform be clearly indicated at all rail stations. This is designed to decrease train boarding confusion, allowing the disabled rider to expect the accessible car in the same place everyday. Furthermore, if any amenities are provided anywhere else on the train, such as bathrooms, diner or bar cars, they must be provided in the accessible car or cars. If these conditions are met in providing one accessible car per train, then commuter rail operators do not have to buy all new cars accessible.

The obvious objection to this one car per train rule is the question of whether all disabled riders will be accommodated in the one car. But with my amendment, the one car rule is by no means permanent. I point out to my colleagues section (B), which is the key to my amendment. It states that if continuing demand for accessible capacity is not met by one accessible car, then the operator must provide additional accessible cars as necessary to meet demand. In other words, if one accessible car meets demand, then one car constitutes accessibility. If it does not, then additional capacity must be provided.

I realize the leaders charging the ADA through Congress will frame this amendment as a weakening amendment. I encourage those claimants to take a close look at my amendment, which was the position adopted by the Committee on Public Works and Transportation, and compare it to the commuter rail provisions currently in the bill. I believe that this amendment along with my language detailing the intent of this provision offers far greater assurance that disabled riders will be comfortably accommodated.

To simplify this distinction: The current bill does mandate each new car must be accessible, but it allows a very broad interpretation of what qualifies as accessible. While my amendment only requires as many accessible cars as are necessary to meet ridership demand, it provides a strong interpretation of accessibility requirements on the train car.

You will notice my amendment requires that any services available anywhere on the commuter train, such as a bathroom, diner car or bar car, must be provided to the accessible car as well. The existing bill says no bathroom is required, even if every non-accessible car on the train includes a bathroom.

Also, in order to ensure the efficiency and workability of the one car per train rule, my amendment mandates that the rail operator must provide clear notice of where the accessible car on each train is located. This important provision will prevent the confusion on the train station platform which results from a person in a wheelchair having to wait for the approaching train and then moving on the crowded platform to the correct car to board. In most cases, the operator should be able to have the accessible car in the same place each day, which should make things easier for the disabled rider.

I can promise that the existing commuter rail provisions do not guarantee even these simple solutions. In fact, I think the existing requirements, when open to wide interpretation, do far less than my amendment to guarantee accessibility. To clarify this, I would like to describe briefly what the accessible commuter train will look like under my provision. As an example, I will use the current plan for accessibility adopted by Chicago's commuter rail service. I think it's appropriate to focus on Chicago's Metra, since many have claimed that this amendment is exclusively a Chicago amendment. That is simply not the case. I believe my approach is more reasonable, more rational, and guarantees accessibility. Illinois' plan for accessibility will provide complete accessibility, and Congress would be wise to use it as a model as my amendment does.

Under my amendment, each commuter train has one accessible car. As the train approaches the station, the disabled passenger would know exactly where to board, because it would be posted and the accessible car would be in the same place everyday. In Illinois, when the train pulls up, lifts on each side of the train would elevate riders into the car, where they would have adequate space to wheel in and secure their wheelchair. The car would have space for three or four wheelchairs. When these spaces are not occupied, fold down seats would be used by other passengers. There would also be a bathroom accessible to wheelchairs. Obviously, the accessible car is shared by passengers in wheelchairs and able bodied passengers. It is not a "cattle car" exclusively for the disabled. If those spots for wheelchairs are filled, my amendment requires that additional accessible cars are required on that train.

That is what accessibility would look like in Illinois. That is the scenario for providing accessibility on commuter trains under my amendment. Now lets take a look at what accessibility could look like under the current bill, as clarified by Energy and Commerce Committee report language.

Most important are the issues of lifts versus platform solutions and the accommodation of wheelchairs once aboard the train. Energy and Commerce report language makes clear that the existing bill does not require wheelchair lifts to provide accessibility at low platform stations. Rather, operators can use mini-platforms or movable ramps which wheelchairs ascend, and then enter the train. Well, in Illinois we looked at all the options for accessibility in coordination with the disabled community. The operators and the disabled agreed that these ramps, compared to lifts, are difficult to negotiate, more dangerous, and not preferred. Additionally, I point out that when a ramp is used to provide accessibility from a low platform, the ramp accesses only one train car. Theoretically, there is access to every car, but only by using the mini-platform or ramp. The de facto result is access to one car per train, a truism that opponents of my amendment would be wise to recognize. The most disturbing aspect of the current version is the fact that it may not really provide accessibility to an entire system. The Energy and Commerce report makes this clear, I quote: "there may be times at which a new car is itself accessible and usable but not able to be entered from every station it serves or from every point within a station. [This is not discrimination]." Obviously, a situation could arise where a person in a wheelchair can board the train but cannot exit at the desired stop. That is not full accessibility. In sharp contrast, the Public Works version along with my report language makes clear each station must be accessible, and even outline requirements for special events and other situations which will arise. With at least one car per train accessible, as my amendment guarantees, the disabled are ensured access to each train at every station. Apparently, the bill's language and its current interpretation offer no such assurances.

Under the bill and current report language, there is little to offer once the disabled passenger is aboard the commuter train. Access is required, but there need only be one spot in the car. So let's look at three people in wheelchairs who want to go to a baseball game, all boarding at the same station. Under my provisions, lifts elevate the riders into the accessible car, where they all have room. With only one space on an accessible car or cars, boarding via a platform ramp, one person boards at a time. I guess the train would have to move forward to access the next available door with an available wheelchair space inside. The three riders could not sit together. They would have no bathroom, even if every nonaccessible car on the train had a bathroom. In this situation, I believe my approach has clear benefits.

I point these scenarios out to highlight one important point. Mine is not a weakening amendment. Yes, it is a different approach than the current version, substantially different. But consider the two approaches, one approved by the Public Works and Transportation, one approved by Energy and Commerce. I want to provide one accessible car per train, more if necessary, but I want the definition of accessibility to mean lifts for low station platforms, with room for more than one wheelchair, and all the services offered anywhere on the train. The current bill provides accessibility to all newly purchased cars, but allows platform ramps, only requires one wheelchair slot, does not require equal services, and as report language indicates, does not even require every station be accessible.

I also point out that the vagueness of the current provision which is highlighted by the report will largely leave interpretation up to the courts. We should be working to limit, not promote, litigation on the ADA.

So anyone who would like to frame my provision as a weakening amendment should certainly acquaint themselves with the existing provisions for commuter rail and its interpretation by the Energy and Commerce report, which appeared in the RECORD May 15. It is a different approach, but I think it may be more successful in guaranteeing safe accessibility to every commuter train for the disabled.

Since the rationale of my amendment rests on section (B), which states that any continuing demand will be met by additional capacity, the logical question is what constitutes "continuing demand." When this provision was adopted by the Committee on Public Works and Transportation, I offered extensive report language to clarify the intent of this provision. The same would be necessary if this amendment is adopted. I'd be glad to explain the intent of this section and demonstrate how regulations will really put some teeth into this provision.

"Continuing demand" should be define as a regular demand on a given train line at a given period of the day. In interpreting demand, the definition must focus on demand being regular and consistent, not daily. If a given train's accessible car is filed daily to capacity, and on any given day or days of the week an additional person in a wheelchair waits for a ride and is not accommodated, that train cannot meet the demand. By no means does a given train need to operate over capacity five or seven days a week to be considered as "continuing demand." Rather, the demand, whether once a week or five times, must be regular or predictable. For instance, a person may have a part-time job and only ride a train three times a week. A student may ride to attend classes twice a week, or a person may travel to the hospital once a week. In all cases, if the demand is continuing and consistent to a train sometimes filled to capacity, the additional space must be provided.

While one-time special events which cause a sharp increase in wheelchair ridership would be a challenge, if special events which occur on a regular, scheduled basis (sporting events, concerts) were found to attract increased disabled ridership, increased accessible capacity must be provided. So, if the operator and the disabled community determined that trains downtown before Chicago Bears games, or before Civic Center concerts, did not accommodate the ridership, an adjustment in operations would be necessary, very similar to the adjustment for any other line's daily demand.

In both cases, regular demand and special events, cooperation between the operator and the disabled community will be vital to determining which trains at which times meet the criteria of "continuous demand." I believe it would be wise to mandate a consultation process or advisory committee for the determination of ongoing demand and new car need. Most importantly, such advisory committee would provide the mechanism for the disabled to call attention to a new regular demand, rather than relying solely on the conductor's reports. Metra, the commuter rail operator in Chicago, already uses such a committee to determine its budget and operations plans for accessibility. Such committee should be composed of representatives of the disabled community, but primarily wheelchair users as they are primarily affected by the commuter rail provisions of the ADA.

Finally, when it is determined that an increased demand cannot be met by one accessible car per train, the amendment states that the "public entity must use such additional accessible cars per train as may be necessary to meet such demand." I would like to clarify that the rail operator must do so promptly. When another car is determined necessary, this does not mean that the operator would have to purchase a brand new car from the manufacturer, which operators would argue takes 1 or 2 years. Rather, especially in large systems, providing an additional car is a matter of operational adjustments—rail yard changing to place another accessible car on a given train. For instance, in Illinois Metra will have over 180 acces-

sible cars in a fleet of roughly 650, and could make a car available without a problem. Unlike new purchases, these railyard changes could be adopted relatively quickly. DOT regulations could specify "When the provision of an accessible car to meet demand does not require new purchases from the manufacturer, but rather operational adjustments like rail yard switching, the additional accessible space or additional accessible car must be provided within 14 days of the determination of increased demand." In cases where increased capacity is provided by converting regular seating areas into additional wheelchair spaces, the turnover time could be even shorter, perhaps a week.

The points mentioned above—determination of continuing demand, providing for special events, mandated consultation between the operator and the disabled community, and the responsiveness of the operator to increased demand—are essential to the provisions for commuter rail in this amendment.

□ 1030

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HASTERT], the cosponsor of this amendment.

Mr. HASTERT. Mr. Chairman, the amendment we offer today, to require that every commuter rail train have at least one handicapped-accessible rail car, is a practical, not political, solution to the transportation needs of the handicapped. This provision, which was made part of the Public Works Committee's ADA legislation, gives the handicapped needed access. What it does not do, however, is demand that every communter rail system across the Nation spend hundreds of millions of dollars to purchase or reconstruct all rail cars to be accessible. Many of our transit authorities, including our own in Chicago, are suffering ongoing financial hardship.

The Lipinski-Hastert amendment guarantees that every handicapped person that wants to ride, can ride. If at any time one car per train is not sufficient to meet capacity, additional cars must be provided as needed. For those who would attempt to tout civil rights to cloud this issue, and demand that every rail car on every train be handicapped-accessible, I would suggest they examine their collective consciences. The commuter rail language in the bill before us today is riddled with exemptions and exceptions.

For example: only "key" stations in a system must be accessible. In New York City, only 38 of 465 stations, 8 percent, are classified as key stations. In Philadelphia, fewer than 20 percent. San Francisco cable cars and New Orleans street cars are entirely exempt from accessibility requirements.

Those who support this amendment are acknowledging the vital need for handicapped accessibility and providing the most logical and cost-effective way to get there. If we impose unnecessary additional financial hardships on already pressed transit systems we will harm all riders, including the handicapped. Fewer dollars mean scheduling reductions and limitations on new capital expenditures to improve transportation services. Those attempting to block this proposal should reflect upon their true motivations.

□ 1040

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. LIPINSKI. I yield to the gentleman from Illinois.

The CHAIRMAN. The Chair would point out that the gentleman from Illinois [Mr. LIPINSKI] controls the time.

Mr. LIPINSKI. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I thank my friend for yielding time to me.

Mr. Chairman, the cost of having a lift on every coach is going to be passed off to the ridership. We are talking about a lot of people in Chicago who live in the inner city but whose jobs are out in the suburbs and who have to take public transportation to get to work. The fare is already prohibitive. This will only add to their burden. So while we are perhaps nominally helping one group, we are disadvantaging another group.

I will ask the gentleman from Illinois [Mr. LIPINSKI] this question: This will cost upward of $160 million, will it not, to make all the coaches on the Metra system accessible?

Mr. LIPINSKI. Mr. Chairman, if the gentleman will yield, it will cost about $150 million.

Mr. HYDE. Yes. It just seems to me that common sense and logic ought to obtain in this situation. If a train is accessible, then that ought to be sufficient until money is available to make every coach accessible.

Mr. LIPINSKI. Mr. Chairman, I want to thank the gentleman from Illinois [Mr. HYDE] and the gentleman from Illinois [Mr. HASTERT] for their statements.

The CHAIRMAN. The Chair wishes to advise the gentleman from Illinois [Mr. LIPINSKI] that he has 2 minutes remaining.

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

The CHAIRMAN. The Chair recognizes the distinguished gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr Chairman, I yield myself such time as I may consume.

I rise in opposition to the amendment offered by the gentleman from Illinois [Mr. LIPINSKI]. There are three main reasons why I cannot support this weakening amendment.

First, the amendment represents a step backward for disabled Americans. When Congress passed the Rehabilitation Act 17 years ago, the law prohibited discrimination against disabled individuals by entities receiving Federal financial assistance. Under current regulations, commuter railroads that decide to purchase new rail passenger cars must buy accessible cars. The provision the Committee on Energy and Commerce adopted, which is in the bill before us, specifically requires commuter railroads to buy new cars that are accessible, in addition to complying with the one car per train rule. The amendment being offered thus represents an unequivocal retreat from years of established statutory and regulatory law governing commuter railroads.

Second, this amendment is not supported by the administration or the disability community.

The Energy and Commerce Committee spent many hours with representatives of the disabled community in considering the proper scope of provisions governing accessibility for Amtrak and commuter railroads. These lengthy and intensive negotiations and discussions produced a set of mutually agreeable provisions which will improve accessibility for the disabled on Amtrak and commuter railroads, taking into consideration the financial and operating realities of these transportation providers. We should not undo the agreement which our committee reached with the disability community and the administration after extensive and sensitive deliberation.

Third, this amendment sets accessibility requirements for commuter railroads at the lowest common denominator. Most commuter railroads and Amtrak already have made good faith efforts to comply with existing laws and regulations governing accessibility. If we adopt this amendment today, we will be lowering standards which all commuter railroads must comply with in planning for the future.

The amendment thus runs contrary to the key tenets of this landmark legislation—that we should strive to plan, design, and engineer accessibility into our basic services and operations and that we should eliminate the counterproductive mindset that accessibility means special, inordinate, or superfluous changes to accommodate the basic needs of disabled Americans. The amendment also encourages segregation instead of integration. Under the amendment, all disabled riders will be forced to ride in one designated car, thereby creating a cattle car environment. This is directly at odds with the primary goal of this legislation.

I also have reservations about the meaning of the amendment. What does "actual continuing demand" mean? Who will make that determination? What is the effective date of the amendment? How does the amendment apply to accessibility requirements other than for mobility impaired individuals? What does "additional services" mean?

In conclusion, Mr. Chairman, the bill before us sets clear, enforceable, and fair provisions for Amtrak and commuter railroads, which were negotiated by our committee, the disability community, and the administration.

Adoption of this amendment will only serve to muddy the waters and will undercut the purposes of the legislation. I strongly urge my colleagues to reject this unnecessary amendment.

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

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, if the gentleman from Ohio has any other speakers, I would suggest that he proceed because I would still like to reserve my time since I only have 2 minutes left, unless the gentleman from Illinois wishes to yield some time to me. I could use it because I have other statements I would like to make.

The CHAIRMAN. The Chair will point out that the gentleman from Ohio [Mr. THOMAS A. LUKEN] retains the right to close debate. However, he may yield time to the gentleman from Illinois at his request if he wishes, and the Chair awaits some clarification.

Mr. THOMAS A. LUKEN. Mr. Chairman, I am glad to yield 3 minutes to the gentlewoman from Illinois [Mrs. COLLINS].±

Mrs. COLLINS. Mr. Chairman, I thank the gentleman for yielding.

I rise in opposition to the amendment offered by the gentleman from Illinois. This amendment is contrary to a basic goal which runs throughout this landmark civil rights legislation: that goal is to fully integrate disabled Americans into all aspects of life in our country.

Allowing commuter railroads to provide only one accessible car per train will ensure that disabled passengers are segregated from their fellow citizens well into the next century. There was a time in this country when I was required to ride in the back of the bus. I could not accept that kind of discrimination then, and I will not accept it now for any American. Allowing a few disabled passengers to ride a train is not enough. What disabled Americans seek with this legislation is the dignity which can only come with the full recognition of their civil rights.

To be segregated is to be misunderstood, even feared. If we have learned any lessons in the last 30 years, it is that only by breaking down barriers between people can we dispel the negative attitudes and myths that are the main currency of oppression. Imagine, if you will, that you are an employer deciding whether to hire someone with a mobility impairment; you may have concerns about whether that person can get to work every day on time. However, if you sit next to someone in a wheelchair every day on the train, I doubt that the question would enter your mind.

The amendment states that commuter railroads would be required to add additional accessible cars in response to actual continuing demand. Does that mean that if disabled citizens aren't buying tickets to ride on inaccessible trains that demand doesn't exist? If you used a wheelchair, would you show up for a ride on a train that experience tells you can't accommodate your needs? Of course not. Demand for services by the disabled can only manifest itself when the supply already exists. Train cars have a useful life of about 50 years. If we do not require accessibility for all newly purchased cars, we will not have achieved the goals of this bill for commuter railroads in the year 2000.

The costs of the changes required by this bill as it currently stands are modest; about what it costs for an air conditioner. Amortized over 50 years, the cost is negligible. Federal law already mandates accessibility for commuter railroads. Let us move forward, not backward, and vote against this weakening amendment.

Mr. DELLUMS. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I would like to compliment my distinguished colleague for her eloquent statement. I thank her for her statement of dignity and integrity, and I associate myself with the gentlewoman's remarks.

I also compliment the gentleman from Ohio [Mr. THOMAS A. LUKEN] for his detailed explanation as to why the majority of this body ought to reject the amendment.

Mrs. COLLINS. Mr. Chairman, I thank the gentleman from California [Mr. DELLUMS].

Mr. HASTERT. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS. I am happy to yield to the gentleman from Illinois.

Mr. HASTERT. Mr. Chairman, I certainly admire the gentlewoman in the well. I have worked with her on many occasions. But I would like to point out that in this situation we give access to every person on every train.

In the city of New York, for instance, less than 10 percent, only 8 percent of the stations, are so that people can get in and get on the trains. In Philadelphia, it is less than 20 percent of the people.

Mrs. COLLINS. Mr. Chairman, I reclaim my time. Let me say this: This amendment provides that only one car would be required in each group of cars that constitutes a train to be used for public service. That is unfair.

The CHAIRMAN. The time of the gentlewoman from Illinois [Mrs. COLLINS] has expired.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 1 additional minute to the gentlewoman from Illinois [Mrs. COLLINS].

□ 1050

Mrs. COLLINS. I thank the gentleman for yielding more time. Mr. Chairman, to say that only one car could be used by the disabled is unfair; it is unjust. It is segregation. My colleagues may call it a money matter and give patterns in other cities. It still remains the same. It is unfair and unjust to disabled Americans who are seeking their full civil rights in this Nation.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. ANDERSON], the chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. Mr. Chairman, I rise in strong opposition to the amendment.

The disabled should not be segregated together in one commuter rail car as if they were being forced to sit in the back of the bus. They should have the same right to sit in any car on a commuter train as anyone else, so every new car should be accessible to the disabled.

Having each car accessible will also provide more capacity for wheelchair users on the train, since each vehicle would have space for wheelchairs rather than just on one car. Also foldup seats are commonly used on accessible vehicles to eliminate any loss of seating capacity involved in making cars accessible.

Different services, such as food or beverage services, are sometimes offered on different commuter rail cars and the car offering these services might not be the one which is accessible. Since wheelchair travel would not be possible between the cars, the disabled would be denied these services. Clearly, we should not pass a civil rights bill which provides a higher quality of service to one group of individuals and then deny these same services to individuals with disabilities.

For all of these reasons, I strongly urge a "no" vote on the amendment.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 2 minutes to the gentlewomen from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in opposition to this amendment.

My colleague from Illinois is attempting to offer an amendment that he believes will help Chicago, and most of the debate about this amendment has centered around the question of whether this amendment is truly in the interests of the disabled or not. Many believe it is not.

However, I would like to introduce another important concern into this debate. The approach that is being pursued here—with one car on each train accessible, and the accessible car arriving on the same place on the platform each time—will prove extremely difficult to manage for many other commuter railroads around the country.

The commuter railroad in my district, Metro-North, is adamantly opposed to this amendment because of the severe difficulties it would pose to the management of their system. The cars on Metro-North trains are reordered frequently during each day in order to meet ridership demands. If Metro-North is forced to keep one accessible car in a specific place on each train, it will increase costs and interfere with their schedules. In fact, they consider this requirement to be more burdensome than the requirements that are already in the bill.

I think we ought to oppose this amendment, not only because of the serious concerns it raises about segregating the disabled in a separate car on each train, but also because this amendment would wreak havoc on other commuter railroads in this Nation, who have indicated to me in strong terms that they prefer the language that we have already wisely written into this bill.

I would urge my colleague to oppose this amendment and preserve the text of the bill, which is not only in the interests of the disabled, but in the interests of other commuter railroads around the Nation.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I am afraid I must oppose very vigorously the amendment offered by the fine gentleman from Illinois.

Why should we grant a special exemption from the provisions of the ADA for commuter rail vehicles? These are public transit vehicles just like buses and metrorail type vehicles. They receive urban mass transportation funds just like buses and metrorail vehicles. Of course, then why should we grant this exemption? The obvious answer is that we should not.

I am also told that when leaving the train storage yards, it will be difficult to guarantee that one car per train is accessible. By passing this amendment, you will be ensuring that transit authorities continue to have this problem of matching an accessible commuter rail car to each train in perpetuity.

In the final analysis that means we would be perpetuating, perhaps forever, the denial of commuter rail service to individuals with disabilities.

It makes much more sense to buy new, accessible commuter rail vehicles and to make existing commuter rail cars accessible when they are remanufactured, as the ADA currently requires. The bill is very clear, all new cars and all new stations are made accessible and to that extent, the bill is consistent. In this way, over a period of time, individuals with disabilities will have access to all commuter rail cars, just like everyone else. They will not be segregated in a single, accessible rail car—a practice bearing an uncomfortable and unacceptable similarity to the days when blacks were forced to ride in the back of the bus.

That is why I urge my colleagues to defeat the amendment.

Mr. LIPINSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BARTLETT] so that the gentleman may ask a question or two.

Mr. BARTLETT. Mr. Chairman, I appreciate the gentleman from Illinois [Mr. LIPINSKI] yielding to me for two questions, and let me say at the outset that I have some sympathy for this amendment, but I have some concerns about the specific draft. So, I have two questions.

First, should this bill be referred to a conference, would the gentleman from Illinois [Mr. LIPINSKI] work with the conferees to insure, first, that a mechanism is reinstated in the amendment, as it was in the Committee on Public Works and Transportation, a mechanism to enforce the required accessibility on demand standard?

Mr. Chairman, the amendment of the gentleman from Illinois [Mr. LIPINSKI] has a requirement that, if there is a demand, then additional cars be purchased.

Mr. LIPINSKI. Very definitely I will do that. In fact, we have report language, if this amendment were to pass, covering that.

Mr. BARTLETT. Mr. Chairman, my second question is: Again, should we go to conference, the comments of the gentleman from Illinois [Mr. LIPINSKI] on the floor indicated that he wished his amendment to require more than the one or two seats per accessible car, but the number of seats on the car per train that is accessible be demand responsive, so it would be more than one or two seats. Would the gentleman also work with us on both of those amendments, not for report language out of the conference, but for statutory language in the bill as passed out of conference?

Mr. LIPINSKI. I would be more than happy to do that. Absolutely.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman from Illinois [Mr. LIPINSKI] for his clarification, and, based on that, I do think the amendment does need to be clarified in statute where we tighten it up somewhat, but I would be prepared to support it as it moves off the floor here.

Mr. LIPINSKI. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I just want to say, "Thank you, sir, for yielding."

My colleagues, I am offended, this saying this is a racial piece of legislation, that it is civil rights legislation. If my colleagues put a person in any designated spot in any car, they are setting him in a designated spot.

Mr. Chairman, I say to the gentleman from California that talks about this being an exception, "What about the exception in California and the cable car exception?"

The gentlewoman from New York [Mrs. LOWEY] talks about exemptions. What about 300 stations in her home State of New York that are being exempted out of this?

Mr. Chairman, this is access to everybody, and I think that is the whole underlying tone of this amendment.

□ 1100

Mr. LIPINSKI. In conclusion, Mr. Chairman, I simply want to say that if you really want to help out the disabled, if you really want to help out the transportation systems in this Nation, you will support this amendment. If you just read our amendment, our language, the Energy and Commerce Committee amendment and its language, you will see that for transportation and the disabled, we are far superior.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield myself 30 seconds to comment on the previous colloquy, which admits the point that I made in the opening statement that the actual continuing demand is a vague term which has not been defined. It has been admitted now by the other side that there is a defect which would have to be cured at a later time, and there are no assurances that it would be cured. That is an additional reason why this amendment should be rejected.

Mr. Chairman, I yield the balance of the time to the distinguished gentleman from Maryland [Mr. HOYER], the author of the principal legislation before us, to close debate.

Mr. HOYER. Mr. Chairman, I thank Chairman LUKEN for yielding me this time. I rise in strong opposition to the Lipinski amendment.

The Americans With Disabilities Act is premised on the notion that this society will no longer buy new or build new vehicles and buildings that are not accessible. Nobody, not New York, not Los Angeles, not New Jersey, nobody will buy cars which are not accessible. There are no exemptions for new cars. This amendment seeks to do that.

Furthermore, this amendment seeks to retreat from today's law. The regulations now pending, issued by the administration, require commuter rails to buy accessible new cars. Therefore, this not only is not consistent with the ADA protections that are being extended, it is not consistent with existing law and the administration's pending regulations.

Now, let me say that the administration does not support the Lipinski-Hastert amendment. They believe it is not consistent with their agreement of support for the Americans With Disabilities Act.

So point No. 1, the administration is opposed to this amendment.

Second, this amendment is opposed by the mayor of Chicago, with whom I talked last night.

Mr. LIPINSKI. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Chairman, let us get that straight.

First of all, the mayor of the city of Chicago has nothing to do with commuter rail, No. 1.

No. 2, the mayor of the city of Chicago issued a letter stating he supports this bill. I am a cosponsor of this bill. I have some problems with it. He may or may not have some problems with this amendment.

Mr. HOYER. Well, I talked to him last night.

Mr. LIPINSKI. I spoke to him last night, too.

Mr. HOYER. He is talking to all of us.

Mr. LIPINSKI. He is a very expressive man.

Mr. HOYER. The President is opposed to the amendment. Mayor Daley is opposed to the amendment because he believes it is inconsistent with the protections extended by this bill.

Let me say further that the committee who has responsibility over this bill, and the chairman have all spoken on this issue.

New cars ought to be accessible. All new cars ought to be accessible. We ought to build in our society the psychology of accessibility to all people in our society.

The premise of the cost projections by the proponents of the Lipinski-Hastert amendment, I suggest, are incorrect in their assessment. First of all, they premise that two lifts on every car is essential. The bill does not say that. You can make cars accessible by changes at stations, even if they are not at grade. We have pictures depicting that. I do not have time to go through that show, but the fact of the matter is the premise of the cost projections is incorrect.

Second, it projects that all new cars have to have rest rooms. That is not required by this legislation. As a matter of fact, it specifically says it is not required in the report language.

The gentleman speaks of key stations. In fact, all key stations will need to be accessible. We do give time for that. We give up to 20 years for that, as the gentleman knows.

Why? Because we are sensitive to the cost involved and we want to give people the opportunity; but the bottom line of this legislation is that we are opening America to the disabled, not except here or except there or only if it is convenient here, we are opening America to the disabled.

I would urge the House to reject this amendment, reject it because it is a retreat from today's law, a law passed in 1973, the Rehabilitation Act that said we are going to make America accessible, and anybody who gets Federal funds needs to comply.

What is the problem here? The problem is, unfortunately, that one system uniquely in America has not made significant steps toward accessibility.

Now, I am sorry about that and I understand that may cause some problems, but this law has been on the books since 1973. One could have contemplated that.

Now, this system, particularly the Chicago system, as I understand it from the cost projections submitted to me by the sponsors of this bill, projects substantial acquisition of cars in the very near term.

Why? Because they have not purchased cars to date, because they were concerned about purchasing accessible cars.

In fact, I understand, I may be corrected, that there are three suits pending against that system for violation of State law, notwithstanding the Americans With Disabilities Act.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Illinois [Mr. LIPINSKI].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LIPINSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 110, noes 290, not voting 32, as follows:

[Roll No. 119]

AYES—110

Archer	Hancock	Myers
Armey	Hansen	Nielson
Aspin	Hastert	Olin
Ballenger	Hatcher	Packard
Bartlett	Hefley	Parker
Barton	Herger	Paxon
Bateman	Hiler	Poshard
Bentley	Hopkins	Pursell
Borski	Hubbard	Quillen
Brown (CO)	Huckaby	Rhodes
Bruce	Hunter	Ritter
Bunning	Hyde	Roberts
Burton	Inhofe	Rogers
Clinger	Ireland	Rostenkowski
Coble	Jones (NC)	Russo
Combest	Kyl	Sangmeister
Condit	Lagomarsino	Sarpalius
Courter	Lancaster	Schaefer
Cox	Leath (TX)	Schulze
Crane	Lewis (CA)	Shaw
Dannemeyer	Lewis (FL)	Shumway
Davis	Lightfoot	Shuster
DeLay	Lipinski	Skeen
Dickinson	Livingston	Skelton
Douglas	Lowery (CA)	Slaughter (VA)
Duncan	Marlenee	Smith (NE)
Edwards (OK)	Martin (IL)	Smith (TX)
Fawell	McCandless	Smith, Denny (OR)
Fields	McCollum	Stangeland
Frenzel	McCrery	Stenholm
Gallegly	McEwen	Stump
Gallo	McMillan (NC)	Tallon
Goss	Meyers	Thomas (WY)
Gradison	Miller (WA)	Upton
Grandy	Montgomery	Vucanovich
Grant	Moorhead	Young (FL)
Hall (TX)	Morrison (WA)	

NOES—290

Ackerman	Dellums	Henry
Anderson	Derrick	Hertel
Andrews	DeWine	Hoagland
Annunzio	Dicks	Hochbrueckner
Applegate	Dingell	Horton
Atkins	Dixon	Houghton
AuCoin	Donnelly	Hoyer
Barnard	Dorgan (ND)	Hughes
Bates	Downey	Jacobs
Bellenson	Dreier	James
Bennett	Dwyer	Jenkins
Bereuter	Dymally	Johnson (CT)
Berman	Dyson	Johnson (SD)
Bevill	Early	Johnston
Bilbray	Eckart	Jones (GA)
Bilirakis	Edwards (CA)	Jontz
Bliley	Emerson	Kanjorski
Boehlert	Engel	Kaptur
Boggs	English	Kasich
Bonior	Erdreich	Kastenmeier
Bosco	Evans	Kennedy
Boucher	Fascell	Kennelly
Boxer	Fazio	Kildee
Brennan	Feighan	Kleczka
Brooks	Fish	Kolbe
Broomfield	Flake	Kolter
Browder	Foglietta	Kostmayer
Brown (CA)	Ford (MI)	LaFalce
Bryant	Frost	Laughlin
Buechner	Gaydos	Leach (IA)
Bustamante	Gejdenson	Lehman (CA)
Campbell (CA)	Gekas	Lehman (FL)
Campbell (CO)	Gephardt	Lent
Cardin	Geren	Levin (MI)
Carper	Gibbons	Levine (CA)
Carr	Gillmor	Lewis (GA)
Chandler	Gilman	Lloyd
Chapman	Gingrich	Long
Clay	Glickman	Lowey (NY)
Clement	Gonzalez	Luken, Thomas
Coleman (MO)	Goodling	Machtley
Coleman (TX)	Gordon	Madigan
Collins	Gray	Markey
Conte	Green	Martin (NY)
Conyers	Guarini	Martinez
Cooper	Gunderson	Matsui
Costello	Hall (OH)	Mavroules
Coughlin	Hamilton	Mazzoli
Coyne	Harris	McCloskey
Crockett	Hawkins	McCurdy
Darden	Hayes (IL)	McDade
de la Garza	Hayes (LA)	McDermott
DeFazio	Hefner	McGrath

McHugh	Ridge	Staggers
McMillen (MD)	Rinaldo	Stallings
McNulty	Robinson	Stark
Mfume	Roe	Stearns
Miller (OH)	Rohrabacher	Stokes
Mineta	Ros-Lehtinen	Studds
Moakley	Rose	Sundquist
Molinari	Roth	Swift
Mollohan	Roukema	Synar
Morella	Rowland (CT)	Tanner
Morrison (CT)	Rowland (GA)	Tauke
Murphy	Roybal	Tauzin
Murtha	Sabo	Taylor
Nagle	Saiki	Thomas (GA)
Natcher	Savage	Torres
Neal (MA)	Sawyer	Torricelli
Neal (NC)	Saxton	Towns
Nowak	Scheuer	Traficant
Oakar	Schiff	Traxler
Obey	Schneider	Udall
Ortiz	Schroeder	Unsoeld
Owens (NY)	Schuette	Valentine
Owens (UT)	Schumer	Vander Jagt
Oxley	Sensenbrenner	Vento
Pallone	Serrano	Visclosky
Panetta	Sharp	Volkmer
Parris	Shays	Walgren
Pashayan	Sikorski	Walker
Patterson	Sisisky	Walsh
Payne (NJ)	Skaggs	Washington
Payne (VA)	Slattery	Waxman
Pease	Slaughter (NY)	Weber
Pelosi	Smith (FL)	Weiss
Penny	Smith (IA)	Whittaker
Perkins	Smith (NJ)	Whitten
Petri	Smith (VT)	Williams
Pickett	Smith, Robert (NH)	Wise
Pickle	Smith, Robert (OR)	Wolf
Porter	Snowe	Wolpe
Price	Solarz	Wyden
Rangel	Solomon	Wylie
Ravenel	Spence	Yates
Ray	Spratt	Yatron
Regula		
Richardson		

NOT VOTING—32

Alexander	Ford (TN)	Mrazek
Anthony	Frank	Nelson
Baker	Hammerschmidt	Oberstar
Byron	Holloway	Rahall
Callahan	Hutto	Thomas (CA)
Clarke	Lantos	Watkins
Craig	Lukens, Donald	Weldon
Dornan (CA)	Manton	Wheat
Durbin	Michel	Wilson
Espy	Miller (CA)	Young (AK)
Flippo	Moody	

□ 1131

The Clerk announced the following pairs:

On this vote:

Mr. Craig for, with Mr. Nelson of Florida against.

Mr. Thomas of California for, with Mr. Anthony against.

Messrs. VOLKMER, FLAKE, BROOMFIELD, and CAMPBELL of California, Mrs. ROUKEMA, and Mr. PETRI changed their vote from "aye" to "no."

Mrs. BENTLEY, Mr. McMILLAN of North Carolina, and Mr. COBLE changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 101-488.

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SHUSTER: At the end of section 222, insert the following new subsection:

(d) WAIVER.—

(1) GENERAL RULE.—The Secretary may waive application of this section on an annual basis with respect to any public entity which operates a fixed route system in an urbanized area (as defined under section 12 of the Urban Mass Transportation Act of 1964) with a population of 200,000 or less or in an area other than an urbanized area if the following requirements are met:

(A) The public entity submits in writing, and the Secretary approves, a plan for meeting the transportation needs of individuals with disabilities in the service area of such system.

(B) The public entity demonstrates to the satisfaction of the Secretary that under the plan the transportation needs of such individuals will be met at least as effectively as such needs would be met by the fixed route system if all the vehicles on such system were readily accessible to and usable by such individuals.

(C) The public entity demonstrates to the satisfaction of the Secretary that it has established an advisory committee which is representative of individuals with disabilities in the service area.

(D) The public entity demonstrates to the satisfaction of the Secretary that it has held a public hearing, provided an opportunity for comment, and consulted with the advisory committee in preparing the plan.

(E) The public entity demonstrates to the satisfaction of the Secretary that there is no substantial opposition to such plan by individuals with disabilities in the service area of the fixed route system.

(F) Under the plan, the public entity will provide transportation to all individuals with disabilities in the service area of the fixed route system who cannot otherwise use the fixed route system.

(2) SUSPENSION OR REVOCATION.—The Secretary shall suspend or revoke a waiver granted to a public entity under this subsection if the Secretary determines that such entity is not providing transportation for individuals with disabilities in accordance with the plan of such entity approved by the Secretary under this subsection.

(3) DISCRIMINATION.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity to fail to provide transportation in accordance with its plan as approved by the Secretary under this subsection or to fail in any other manner to comply with such plan.

(4) DESCRIPTION OF TRANSPORTATION.—A plan to provide alternative transportation to individuals with disabilities under this subsection may provide for the provision of such transportation through either paratransit and other special transportation services or through a combination of such services and the use on the fixed route system of vehicles which are readily accessible to and usable by individuals with disabilities.

(5) RELATIONSHIP TO SECTION 223.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), section 223 shall apply with respect to any paratransit and special transportation services provided under a plan approved by the Secretary under this subsection.

(B) EXCEPTIONS.—Subsections (c)(1) and (e) of section 223 shall not apply with respect to any paratransit and special transportation services provided under a plan approved by the Secretary under this subsection. In lieu of subsection (c)(1)(A) of section 223, paragraph (1)(F) of this subsection shall apply with respect to such services.

(6) DUPLICATION OF EFFORT.—The Secretary shall take such action as may be necessary to minimize duplication in plans submitted under this section and section 223.

(7) ISSUANCE OF REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this subsection. Such regulations shall take effect at the same time as the regulations issued under section 223 take effect.

(8) TEMPORARY EXEMPTION.—Until the effective date of regulations issued to carry out this subsection, this section does not apply to any public entity which operates a fixed route system in an area described in paragraph (1).

In section 229(a), strike "section 223" and insert "sections 222(d) and 223".

In section 229(b), strike "section 223" and insert "sections 222(d) and 223".

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 20 minutes, and a Member opposed will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, ladies and gentleman, I would hope that you would focus on the substance of this amendment rather than on the emotional rhetoric against it. I would also emphasize that I am offering this amendment not only on behalf of myself but also on behalf of Congressman PEASE of Ohio, Congressman PETRI of Wisconsin.

First and foremost, this amendment provides a very restricted annual waiver on mandating 100 percent lift-equipped buses for those small communities and rural areas, small areas of 200,000 or less as defined by the Urban Mass Transit Administration, or rural areas.

It is important, Mr. Chairman, to note that there are several conditions which must be met before this waiver can be granted to a local transit authority.

This limited local option waiver can be granted only if certain conditions are met: First, the local transit authority must submit in writing a plan for meeting the transportation needs of the disabled in its community. Second, they must demonstrate that the needs of the disabled will be met at least as effectively as a 100 percent lift-equipped system.

Third, they must establish an advisory committee of local disabled representatives and must hold public meetings and consult with the advisory committee and, perhaps most importantly, get this, that there can be absolutely no waiver whatsoever unless the local disabled community has not substantial opposition to the plan.

Now, this is a fundamental difference between this amendment and the previous amendment which was offered. In this amendment, the local disabled community have a veto over such a waiver.

In effect, this shifts the power and the authority and responsibility away from the Washington disabled lobby to the local disabled community. For that reason alone, this amendment should receive very substantial support, in my judgment.

The Secretary must suspend or revoke the waiver if the entity is not providing service to the local disabled that meets all the requirements of the plan.

Now, Mr. Chairman, it is important to realize that when we talk about a lift mandate, mandating 100 percent-equipped lifts, that for thousands of disabled a 100 percent lift-equipped mandate on buses is zero accessibility for thousands of Americans who cannot get to and from the bus stop but rather who must have accessibility through what is called paratransit from their homes.

It is important to recognize, Mr. Chairman, that 100 percent lift accessibility is zero accessibility for thousands of the disabled who cannot get to the bus stop but who must have paratransit, minibus service to and from their homes.

It is also important to recognize that this bill does not provide one cent, one penny of money to support the very substantial requirement costs levied upon our transit authorities across the United States.

The American Public Transit Association, which represents our local transit authorities, says that the cost of this bill, the rail and fixed-route bus costs, range from $7.9 to $11.6 billion over the next two decades. The paratransit cost is $13 billion. So we are looking at a price tag on the transportation provisions alone of this bill of $20 billion over the next two decades, and this bill does not provide one penny to address that. What this bill does, unless it is corrected by this amendment, it mandates that every bus must have a lift.

□ 1140

The bill also says that we must supply paratransit, but there is a loophole. This is extremely important. There is a loophole that says we do not need to have paratransit if it there is "undue financial burden." Think about it for a minute. If we must, without exception, put lifts on every bus, if we do not get one cent more money to do this, and if we have a loophole that says we do not have to use paratransit if it is an undue financial burden, then obviously it is the paratransit that is going to suffer.

It is the people who need to get from their home to where they want to go, the people who cannot get to the bus stop, are the people who are going to suffer. There are thousands, hundreds of thousands of such disabled across America.

So what we should do is have at least a little confidence in our local communities, a little confidence in the local transit authority, a little confidence in the disabled community back home in our communities, and let them make a decision as to whether this must be 100 percent mandated lifts, or whether there can be some exceptions to this, so long as we provide accessibility for the disabled in a manner in which they agree is acceptable.

It is very important also to note that there are those who say this is a civil rights issue, and there can be no exceptions. Well, ladies and gentleman, there are many, many exceptions in this bill. The problem is the big cities have been taken care of. They have been given exceptions. But the small cities and rural America has not been given any exceptions. Consider this: In New York City, under this bill, only 38 of the 465 subway stations need to be equipped for accessibility. So 427 subway stations in New York City will not be equipped for the disabled. These are exceptions which have been given to the big city. In Philadelphia, only 31 of the 172 commuter rail stations need be equipped to serve the disabled. So 140 of those stations cannot serve the disabled. This is an exception. We have been given exceptions to the big cities. In San Francisco the cable cars do not need to provide accessibility. In New Orleans, the street cars do not need to provide accessibility. There are many, many exceptions to this bill. The big cities have been taken care of with their exceptions, but small community America, rural America, has been given absolutely no latitude at all.

We have said by this bill that we do not care what the local disabled community thinks, we are going to tell Americans, from Washington, DC, here, what Americans must do. We are going to mandate exactly how communities must proceed. I think it is very instructive, Mr. Chairman, to note that my dear friends and colleagues who put out a letter yesterday opposing this amendment, the two gentlemen from California, Mr. MINETA and Mr. ANDERSON, in their letter have noted that many cities have already stated that if this amendment prevails they will seek to take advantage of it. Think about that for a minute. What a terrible thing—cities across America have said that they think this is a good idea. What an awful thing for Washington, DC, to say, "No, local cities, no, rural America, no, local disabled community, you cannot decide what is best for you. We here in Washington, DC, know what is best for you."

Under the guise of calling it a civil rights bill, under the guise of saying there can be no exceptions, we have given numerous exceptions to the big cities, but no exception whatsoever to small city America and to rural America. Why do we not have at least a little confidence in our local areas? Why do we not recognize that very clearly this modest amendment gives a veto to the local disabled community? That is the heart of it. That is the guts of it. That is why the modest amendment should be supported.

Lastly, my friends in their letter say when they refer to those cities that are having 100 percent lift accessibility, and that is fine if a city wants to do it, let a city have 100 percent lift accessibility. They say, referring to those cities, if these cities can operate successful lift equipment systems, why can others cities not do so? Yes, sir, that is the bottom line, Members, let Washington, DC, decide what is best for your community. Let Members decide here on the banks of the Potomac what is good for Wisconsin or Pennsylvania or Utah. Let Members tell communities, let Members have no confidence in our local communities, let Members have no confidence in the local disabled community. Let Members rely on Big Brother, because Big Brother knows all.

This is a modest amendment. I urge Members to support it. Support it so that the local communities can have some say in this legislation, and most importantly, so that a veto over any waiver will be held in the hands of the local disabled community and not controlled by the Washington lobby here.

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

Mr. Chairman, I rise in strong opposition to the amendment.

I strongly believe that every public transit bus, most of which are paid for with 80 percent Federal funds, should have a wheelchair lift so the disabled can ride these buses just like their friends, fellow employees, and families. My State, California, has required lifts on every bus in cities of all sizes for over a decade. Long Beach Transit which is in my congressional district has a very successful wheelchair lift program. Johnstown, PA, Champaign-Urbana, IL, and Oshkosh, WI, are all cities of less than 60,000 yet each has a lift-equipped bus fleet. If these cities can operate successful lift-equipped systems, why can't other cities?

More importantly, how can anyone believe that the disabled have less of a right to transportation if they live in a city of 200,000 or fewer than those who live in larger cities. How can we let the latest census dictate the rights of individuals with disabilities? Why

should the disabled in these cities have to call in advance to receive paratransit service—often days in advance—just to do simple things like go to a restaurant or go to see a movie? Remember, separate but equal is inherently unequal.

Many transit systems in cities across America are already buying 100 percent of their buses wheelchair lift-equipped because this approach is more cost effective than providing the same, high level of needed passenger trips on paratransit vehicles.

When we are presented with an amendment which is not cost effective, and which establishes a "separate but equal" doctrine under the law, we should—and must—reject it.

Finally, Mr. Chairman, how can we pass an amendment which takes away a civil right which the Senate, the White House, and even the Department of Transportation in its recent notice of proposed rulemaking are willing to extend to individuals with disabilities. The answer is—we cannot.

I strongly urge a "no" vote on the amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, if my good friend argues that there should be no exceptions, then why in New York City are there 427 stations which the disabled cannot get to? And why in Philadelphia, 140? Why did the big cities have these exceptions where the disabled, according to my friend, are having their civil rights abridged because they cannot get to these stations? Why have we made exceptions to the big cities and not for rural and small town America?

Mr. ANDERSON. Mr. Chairman, in my State the big cities, every one of them, are doing it and they seem pleased. I know in my own city of Long Beach they are not only doing it but they are proud of doing it.

Mr. SHUSTER. If the gentleman will continue to yield, what is good for Long Beach is good for America, and we should have stuffed down our throats what the gentleman's community has decided to do for their community?

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

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to my friend, the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, I rise in support of the Shuster amendment. I do so, and let me emphasize, as a supporter of the Americans With Disabilities Act. As a Member who has opposed all previous amendments to the bill, and as a Member who will vote yes on final passage.

□ 1150

But I support the Shuster amendment enthusiastically. It will add another measure of practicality and common sense to the bill.

Mr. Chairman, Congress faces a particular challenge when considering civil rights bills like ADA. That challenge is to strike a balance between protecting a civil right and maintaining a standard of practicality in the process. The great temptation is to throw all notions of workability to the wind in the belief that with civil rights there can be no compromise, that a person either has a civil right or a person does not. When that temptation is yielded to, the result is legislation noble in concept but unreasonable or burdensome in practice.

To their credit, the committees considering ADA seldom yielded to the temptation. By and large, ADA is a reasonable bill. It is a carefully balanced bill which attacks discrimination against the disabled without unrealistic, impractical, or burdensome requirements.

There is one area, I believe, where improvement can yet be made, and it is highlighted by the Shuster amendment.

Consider, Mr. Chairman, that transit systems in cities under 200,000 are marginal operations. They are struggling to make ends meet. They desperately need new equipment and are chronically short of money. It does not make sense to require them to spend extra money for wheelchair equipped buses if they can provide paratransit services which will fully meet the needs of the disabled. We should keep in mind that wheelchair equipped buses cost more money, and that the Congress has been unable to provide additional funds for transit system capital needs. That has been true over the last 10 years; it is true this year.

Fixed resources and more expensive buses mean few buses. Yet transit systems need more, not fewer, buses.

As others have said in this debate, referring to my good friend and colleague, the gentleman from Pennsylvania [Mr. SHUSTER], the handicapped in each community are fully protected by the Shuster amendment. No waiver to the accessibility requirement can be made if there is any substantial opposition to the plan by persons with disabilities in the area to be served.

That being the case, what purpose can be served by forcing smaller communities to buy more expensive buses out of fixed or even declining capital budgets?

Mr. Chairman, I realize that ADA supporters are urging all-out opposition to all allegedly weakening amendments, but no one requires that we check our common sense at the door when we come into the House Chamber. The Shuster amendment passes the test of common sense, and I urge its adoption.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I thank my friend for yielding this time to me.

Mr. Chairman, let me say to my colleagues that this amendment is directly contrary to the goals and purposes of the Americans With Disabilities Act. The act is designed to open up mainline transportation systems to people with disabilities. It is designed to make the America of the future accessible to all our citizens.

Mr. Chairman, to make this a reality requires mainstreaming of American citizens into mainline transportation systems everywhere.

Mr. Chairman, one of the great goals of this legislation is employment opportunities. Jobs will open up, but transportation is essential to the fulfillment of this dream and hope. But the proposed amendment does not address the issue of increased demand for transportation.

As disabled people become mainstreamed and employed, no transportation system can effectively and efficiently accommodate the large numbers of persons who are needed without accessible fixed route systems.

Finally, Mr. Chairman, the alternative is that this amendment would allow a huge number of communities to avoid the goals of integration of the ADA and to continue the segregation of their own residents through the use of inadequate and demeaning handicapped transit services.

Mr. Chairman, I urge a "no" vote on the amendment.

Mr. ANDERSON. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I regret to say I must strongly oppose the amendment offered by my good friend and distinguished colleague from Pennsylvania.

How can we sit here today and tell that pupil who is in a wheelchair and has attended elementary and secondary school with his or her friends for 10 years that mainstreaming doesn't include the right to ride on a public transit bus? How can we tell a disabled individual gladdened by the recent notice of proposed rulemaking issued by DOT, which will allow that individual to use a public transit bus for the first time, that this Congress is withdrawing that promise of access?

The answer is—we cannot, and that is the ADA requires every new fixed route public transit bus to be accessible to the disabled.

A civil right to equal transportation service does not diminish according to a city's population in the latest census. In fact, this latter aspect of the amendment could result in some par-

ticularly absurd situations. A disabled individual living in a community of 199,000 population would be denied equal transportation services for an entire decade—and for 20 years if more than 1,000 residents failed to move into the city in that first decade.

Where is the logic, much less the fairness, in that? How can we let the census control someone's civil rights?

No, to pass this amendment would be taking a step backward for this country—a country in which half of the buses bought annually are already accessible to people with disabilities who use wheelchairs.

On the other hand, the defeat of this amendment will help us reach the goal of 100 percent accessibility in all cities across America in a cost-effective way, at the same time we advance achievement of the civil right of equal transportation services.

Remember, no retrofitting of buses is required under the ADA. Unfortunately, this means that the disabled will continue to wait, probably for at least another decade, for 100 percent accessibility. But at least, by defeating this amendment today, we will eventually reach full accessibility.

The amendment also includes an endorsement of local option for meeting the transportation needs of individuals with disabilities.

Mr. Chairman, we have had variations of local option with regard to accessibility for people with disabilities in effect in cities across America for many years.

So, I raise a very basic question—if local option works, then why are we still debating the issue of accessibility for the disabled today?

I have seen "Dear Colleague" letters dating back to 1980 regarding this issue and here we are today—10 years later—still debating.

Why has a sizable majority of the disability community said that their needs are not being met by paratransit programs established under the policy of local option?

The answer is very clear to me—local option simply does not work as a national policy.

On the other hand, this ADA bill has the support of virtually every national organization which represents people with disabilities.

Can so many be so wrong? The answer is no; because it is the policy of local option which is wrong, and not the millions of Americans with disabilities who simply want to use public transit service.

I strongly urge a "no" vote on this amendment.

□ 1200

Mr. SHUSTER. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, I rise in support of the amendment proposed by my colleague from Pennsylvania, [Mr. SHUSTER]. In my opinion, that amendment further increases the transportation options available to disabled people.

The ADA bill before us seeks to improve access to transportation for the disabled. The Shuster amendment takes nothing away from the requirements already in the bill. It simply provides that if the local disabled community in any smaller city, without significant opposition within its ranks, believes that an alternative service would serve its needs better, and the local transit agency is willing to provide that service, then they can have it. This is an attempt to empower local disabled residents rather than dictating to them from Washington what they should want. If they want what the bill requires in its current form, they can have it. But, if they want something that they think is better, the amendment allows them to have that.

I repeat, this amendment takes nothing away. If the local disabled citizens want what is required in the bill—lifts on all buses—they can have that. If they prefer something else, however, we should not preclude that option. If these groups inside the beltway who claim to speak for all disabled people in the country are right about what disabled people really want then this amendment does nothing to prevent the installation of lifts on all buses nationwide. But if the disabled people in some cities want something else, this amendment allows them to have it. Clearly, for disabled people this is an improvement in the bill.

In my home town of Fond du Lac, population 35,000, the public transit authority currently operates an extensive paratransit service well beyond the operating hours for its main-line bus service. To ensure that its needs would be adequately met, the local disabled community was actively involved in structuring this successful plan. If Fond du Lac and hundreds of other small cities are forced to incur the additional expense of equipping and maintaining lifts on all of their buses, resources will necessarily be diverted from alternatives which in some cases are preferred by local disabled residents. In Fond du Lac, that means that paratransit will be cut back to only that which is required by the new ADA law: that is, service comparable to the existing main line bus service. In other words, for Fond du Lac and other cities the new ADA law without the Shuster amendment will result in a reduction rather than an increase in service for the disabled.

Some have suggested that unless a specific standard is imposed from Washington, access requirements will be circumvented at the State level. While I am aware of the limitations of the local option system we now seek to replace, I believe this amendment would ensure compliance with access requirements while still allowing for input from the very people this bill seeks to serve. We seek only to empower disabled residents so that they might have have some say in the type of system they prefer to meet their local transportation needs.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Chairman, I call all of my colleagues' attention to this very responsible, commonsense amendment. This amendment says very simply to the small towns of America that, "If you can provide superior service for the disabled community that they choose, you should be permitted to do that."

Mr. Chairman, we have just heard some statements that somehow or another that, if we provide this special door-to-door treatment in the community, that that is a disservice to them.

Let me repeat what we just heard on the floor. it said that, if we gave door-to-door service to the disabled communities in small towns, that somehow or another we were doing them a disservice because we were not mainstreaming them. If we did not force them to sit in the wheelchair in the snow on the corner there and wait for the bus, then, if we went to the house and picked them up, that that somehow was unfair.

Mr. Chairman, I would submit that the Rockefellers, and the Carnegies and the Vanderbilts did not feel it was unfair to have door-to-door service, personalized service, and, when these local communities, as in Chillicothe, OH, have the facilities to pick them up and take them directly to where they are going, and the local disabled community prefers, that, who in the world are people in Washington to outlaw such a service?

Mr. Chairman and my colleagues, we just heard some statements from the larger cities. They do not have that problem because in New York they exempted themselves, Ninety-two percent of all the subway stops in New York were exempted. They do not have to provide this access service. In Philadelphia 80 percent were exempted. They do not have to provide that service, but what this law says, unless the amendment of the gentleman from Pennsylvania [Mr. SHUSTER] passes, that, "If you are a small town, if you are a rural community, and if you care about the disabled, and you provide this service for them, unless you mainstream them and make those changes to all the buses, or none at all, then your service will be disallowed," and that, my colleagues, is exactly the wrong step to take.

Mr. Chairman, if we care about the disabled and trust their judgment, let them decide. Let the local community make the decision, and this commonsense amendment, this amendment of the gentleman from Pennsylvania [Mr. SHUSTER], says that the local disabled community will make that decision.

Mr. Chairman, I encourage my colleagues to allow it to happen and support the amendment of the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

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

I rise in support of this amendment because it will provide communities the flexibility they will need to meet one of the really essential functions of this bill—providing accessible transportation for the disabled—without unnecessarily eliminating existing services offered to the general public and without limiting access for the nondisabled population with mobility problems, particularly the elderly.

It is my feeling that the citizens in my rural district would be better served by having an alternative method of meeting their needs for mobility.

It should be obvious to all of my colleagues that smaller communities have fewer resources than urban mass transit systems and the effects of this bill on smaller communities would be severe.

It is important to realize that this amendment does not exempt a smaller community from meeting the needs of the disabled.

Rather any alternative service must meet the transportational needs of persons with disabilities as effectively as the fixed system would if all its vehicles were accessible.

This amendment requires any alternate plan to be approved by the Department of Transportation and there must be no significant opposition from the disabled community.

I think all of us are committed to providing access for disabled individuals. By supporting this amendment, you enable a community to more easily meet the accessibility needs of the disabled community that at the same time doesn't jeopardize services for the entire community.

Mr. SHUSTER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] is recognized for 4 minutes.

Mr. SHUSTER. Mr. Chairman, in conclusion I would emphasize that the facts of the matter are that our public transit service systems across America in this decade have suffered a 50 percent reduction in real money, real funding from the Federal Government—a 50 percent reduction, my colleagues, and this bill does not provide one penny, not 1 cent, to provide for the increased costs that the bill mandates. So, our public transit authorities across America which have already faced a crunch are going to be facing an even greater crunch.

Now I know the powerful Washington disabled lobby, without regard for what local community disabled leaders think apparently, say that they want to mandate a 100 percent lift without regard for the cost, without regard for where the money is going to come from, without regard for the fact that, if more money must be spent this way, mandated by Washington in this way, it will mean less money will be left to provide paratransit services to other disabled, as well as general, service.

We hear that we should mainline the disabled. Well, of course we have heard several times here today that in the big cities we provided exceptions. There is no mainlining for 90 percent of the people who get on the New York subway. They will not be accessible. There are exceptions for them, but for small town America, for rural America and for small city America the Washington disabled lobby has not seen fit to support flexibility so the local disabled community can make those decisions back home.

□ 1210

Indeed, the most important point about this amendment, Mr. Chairman, is that it has in it an ironclad veto whereby the local disabled lobbies, if they are opposed to this waiver, then the local transit authority cannot get the waiver. It is that simple. What more can we ask for? Let us support our localities, rather than letting Big Brother here in Washington make all these decisions.

Mr. ANDERSON. Mr. Chairman, I yield the balance of my time to the gentleman from Maryland [Mr. HOYER], who has done such a tremendous job on this bill.

Mr. HOYER. Mr. Chairman, I thank the committee chairman for yielding me this time.

I rise in very strong opposition to the amendment offered by my good friend, the gentleman from Pennsylvania.

First of all, let me speak to a couple of the arguments that have been made. New York exemptions—all vehicles in New York must be accessible.

Mr. SHUSTER. Mr. Chairman, if the gentleman will yield, you just cannot get on them.

Mr. HOYER. All vehicles in Los Angeles must be accessible. All vehicles in every large city and every small town and every byway of America must be accessible, without exception.

Why? Because this Congress is saying the disabled are welcomed in, without exception, in New York or in a small town in the smallest place in America. That is what this bill is all about. This bill is about not segregating people who have felt segregated, about not discriminating against people who feel discriminated against. That is what this bill is about.

Section 504 which now exists, adopted in 1973, what does it say? It has been interpreted by the courts. It says that if you get Federal moneys, as all these systems do, you must be accessible. Forget about ADA. Forget about the Shuster amendment. It says you must be accessible.

This is a retreat from present law. This is saying that what we said in 1973 we did not mean. This is saying that although we say we want accessibility, we are going to hedge.

The requirements for public buses under section 504 were described in an en banc decision by the third circuit, and the premise that the local community could have a local option and paratransit only was specifically rejected by the court as inconsistent with the mandate of section 504.

Now in effect this is a retreat from that which we extended in 1973. Let us not back up on the disabled.

This is a bill to extend, not to restrict.

Mr. McEWEN. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I will yield briefly to the gentleman from Ohio.

Mr. McEWEN. Mr. Chairman, I just want to clarify, the gentleman mentioned that all the subways in New York were going to be accessible.

Mr. HOYER. All new cars purchased by New York will be accessible.

Mr. McEWEN. The gentleman mentioned the cars. The fact is on the subway to get to the cars is exempted, so therefore they will never get to the cars. I am sure the gentleman did not want to leave that misunderstanding floating out there. They will not be able to get to the car because 92 percent of the subway stops are exempted under this bill, just as 80 percent are in Philadelphia.

Mr. HOYER. They are not exempted.

Mr. McEWEN. No; they are exempted.

Mr. HOYER. Mr. Chairman, I reclaim my time.

What we say is that key stations must be made accessible. Correct?

Now, why do we say that? Because we are concerned about cost. We are not irresponsible people. We understand clearly.

Now, if you get on a bus not at a station, then you say, "Well, we don't have a station."

All new vehicles must be accessible. We want to look toward the future. We want to say to manufacturers that you can make accessible vehicles. That is what we want to buy in America, be-

cause we want to service all—all of our people, including even those who are disabled. It is apples and oranges.

Now, obviously, there is a relationship. I understand that.

The gentleman indicated we need to be practical. We were practical. We think that making all new vehicles accessible not only as required by section 504 with respect to public entities, but it makes sense.

This amendment, Mr. Chairman, revisits the old and tired argument, the notion that localities should have the option of deciding to maintain segregated facilities and practices. We rejected that a long time ago. Let us reject it today.

Now, for those who raised the specter of paratransit being eliminated, nothing in this bill, I say to my good friend, the gentleman from Pennsylvania, in any way adversely affects paratransit to senior citizens to disabled folks, to anybody. In fact, if a system only has paratransit, if it chooses only to offer paratransit, then in that event its system is looked at. It does not even require that every vehicle in that system be accessible if it is only a paratransit system.

So I say, Mr. Chairman, first, do not give local options to exclude. Everybody in America is included in this bill right now, without exception. Do not pit big against small. Everybody is included.

Second, do not back up from present law.

Third, do not weaken one of the most important provisions that we have. This amendment will affect 80 percent of the communities of America. Do not say to the disabled of America that in 80 percent of the communities we are going to let you opt out of protections.

Mr. Chairman, this amendment weakens this bill. My good friend, the gentleman from Ohio, who is one of this body's strongest supporters of civil rights, and I disagree on this bill.

I hope this amendment is defeated, as was the last one and that we make the strongest possible statement for accessibility.

Mr. PEASE. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to my good friend, the gentleman from Ohio.

Mr. PEASE. Mr. Chairman, I appreciate the gentleman yielding to me.

I just want to emphasize that the point we are trying to make here is whether transit is going to be available at all. I do not think it helps our disabled very much if we say there is going to be a bus equipped with a lift for you if there are any buses at all, but there may not be any buses at all on your line, because our local transit system will have to cut back on purchases of buses because it lacks the money.

Mr. HOYER. Mr. Chairman, I will reclaim my time.

As the gentleman knows, local systems get 80 percent support from the Federal Government on these kinds of changes.

My time has expired. Vote no on the Shuster amendment.

Mrs. COLLINS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from: Pennsylvania. Equal access to transportation is the linchpin of this legislation. Inaccessible transportation is the primary obstacle for 43 million Americans who seek full participation in our society, and economy. By denying access to transportation, we keep millions of disabled citizens out of the workforce and locked in a state of unwanted dependency. That dependency costs our Nation $300 billion annually, and we can't afford it any longer.

This amendment would exclude the majority of disabled Americans from the equal transportation access provided by this bill. Seventy percent of our State capitals would be excluded, as well as, the cities where most of our major universities are located.

The amendment states that our smaller cities must provide alternative, para-transit systems in lieu of mainline transit accessibility. Such segregation not only undermines the intent of this legislation, but experience has taught us that separate is never equal. Currently, paratransit service to the disabled in Chicago requires a minimum of 48 hours advance notice. How many job prospects are eliminated by that requirement? Could any lawyer, or reporter, or businessperson perform on the job with such restrictions? The answer is an obvious no.

Many small cities currently operate accessible mainline transit systems successfully. The cost of lifts on buses, when amortized over the life of the vehicle, are minimal. And as demand and usage grow, accessible buses become even cheaper. It is estimated that acquiring just one additional rider will pay for a lift equipped bus within 1 year. The costs for para-transit systems can only grow. Mainline access may be the best bargain in town.

If passed, this amendment will roll back progress already made by the disabled. Recently, the Department of Transportation indicated that mainline access will be required for transit systems which receive Federal funds to comply with section 504. I hope that my colleagues will not allow this legislation to be used to hurt those Americans it was designed to help. I urge your opposition.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Pennsylvania [Mr. SHUSTER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 266, not voting 18, as follows:

[Roll No. 120]

AYES—148

Andrews	Hastert	Penny
Archer	Hefley	Petri
Armey	Hefner	Porter
Aspin	Herger	Regula
Baker	Hiler	Rhodes
Ballenger	Hoagland	Ridge
Barnard	Holloway	Ritter
Bartlett	Hubbard	Roberts
Barton	Huckaby	Robinson
Bateman	Hunter	Rogers
Bereuter	Hyde	Rohrabacher
Broomfield	Inhofe	Rose
Brown (CO)	Ireland	Roth
Bruce	Jenkins	Rowland (GA)
Bunning	Johnson (CT)	Sarpalius
Burton	Kolbe	Schaefer
Callahan	Kyl	Schuette
Campbell (CA)	Lancaster	Schulze
Chapman	Leath (TX)	Sensenbrenner
Clinger	Lewis (CA)	Shaw
Coble	Lewis (FL)	Shumway
Coleman (MO)	Lightfoot	Shuster
Combest	Lipinski	Sisisky
Condit	Livingston	Skeen
Coughlin	Lowery (CA)	Smith (NE)
Cox	Madigan	Smith (TX)
Crane	Marlenee	Smith, Denny (OR)
Dannemeyer	Martin (IL)	
Darden	McCandless	Smith, Robert (NH)
DeLay	McCollum	
DeWine	McCrery	Smith, Robert (OR)
Dickinson	McDade	
Douglas	McEwen	Stangeland
Dreier	McMillan (NC)	Stearns
Duncan	Michel	Stenholm
Dyson	Miller (OH)	Stump
Edwards (OK)	Miller (WA)	Sundquist
Emerson	Molinari	Tauke
Fawell	Montgomery	Thomas (GA)
Fields	Moody	Upton
Frenzel	Moorhead	Vander Jagt
Gallegly	Morrison (WA)	Volkmer
Gekas	Myers	Vucanovich
Geren	Nielson	Walgren
Goodling	Obey	Walker
Goss	Olin	Weber
Gradison	Oxley	Weldon
Grandy	Packard	Whittaker
Grant	Parker	Young (FL)
Hancock	Paxon	
Hansen	Pease	

NOES—266

Ackerman	Collins	Gaydos
Anderson	Conte	Gejdenson
Annunzio	Conyers	Gephardt
Anthony	Cooper	Gibbons
Applegate	Costello	Gillmor
Atkins	Courter	Gilman
AuCoin	Coyne	Gingrich
Bates	Crockett	Glickman
Beilenson	Davis	Gonzalez
Bennett	de la Garza	Gordon
Bentley	DeFazio	Gray
Berman	Dellums	Green
Bevill	Derrick	Guarini
Bilbray	Dicks	Gunderson
Bilirakis	Dingell	Hall (OH)
Bliley	Dixon	Hall (TX)
Boehlert	Donnelly	Hamilton
Boggs	Dorgan (ND)	Harris
Bonior	Downey	Hatcher
Borski	Durbin	Hawkins
Bosco	Dwyer	Hayes (IL)
Boucher	Dymally	Hayes (LA)
Boxer	Early	Henry
Brennan	Eckart	Hertel
Brooks	Edwards (CA)	Hochbrueckner
Browder	Engel	Hopkins
Brown (CA)	English	Horton
Bryant	Erdreich	Houghton
Buechner	Espy	Hoyer
Bustamante	Evans	Hughes
Campbell (CO)	Fascell	Jacobs
Cardin	Fazio	James
Carper	Feighan	Johnson (SD)
Carr	Fish	Johnston
Chandler	Flake	Jones (GA)
Clarke	Foglietta	Jones (NC)
Clay	Ford (MI)	Jontz
Clement	Frost	Kanjorski
Coleman (TX)	Gallo	Kaptur

Kasich	Natcher	Skaggs
Kastenmeier	Neal (MA)	Slattery
Kennedy	Neal (NC)	Slaughter (NY)
Kennelly	Nowak	Slaughter (VA)
Kildee	Oakar	Smith (FL)
Kleczka	Ortiz	Smith (IA)
Kolter	Owens (NY)	Smith (NJ)
Kostmayer	Owens (UT)	Smith (VT)
LaFalce	Pallone	Snowe
Lagomarsino	Panetta	Solarz
Lantos	Parris	Solomon
Laughlin	Pashayan	Spence
Leach (IA)	Patterson	Spratt
Lehman (CA)	Payne (NJ)	Staggers
Lehman (FL)	Payne (VA)	Stallings
Lent	Pelosi	Stark
Levin (MI)	Perkins	Stokes
Levine (CA)	Pickett	Studds
Lewis (GA)	Pickle	Swift
Lloyd	Poshard	Synar
Long	Price	Tallon
Lowey (NY)	Pursell	Tanner
Luken, Thomas	Quillen	Tauzin
Machtley	Rangel	Taylor
Manton	Ravenel	Thomas (WY)
Markey	Ray	Torres
Martin (NY)	Richardson	Torricelli
Martinez	Rinaldo	Towns
Matsui	Roe	Traficant
Mavroules	Ros-Lehtinen	Traxler
Mazzoli	Rostenkowski	Udall
McCloskey	Roukema	Unsoeld
McCurdy	Rowland (CT)	Valentine
McDermott	Roybal	Vento
McGrath	Russo	Visclosky
McHugh	Sabo	Walsh
McMillen (MD)	Saiki	Washington
McNulty	Sangmeister	Waxman
Meyers	Savage	Weiss
Mfume	Sawyer	Whitten
Miller (CA)	Saxton	Williams
Mineta	Scheuer	Wilson
Moakley	Schiff	Wise
Mollohan	Schneider	Wolf
Morella	Schroeder	Wolpe
Morrison (CT)	Schumer	Wyden
Mrazek	Serrano	Wylie
Murphy	Sharp	Yates
Murtha	Shays	Yatron
Nagle	Sikorski	

NOT VOTING—18

Alexander	Frank	Rahall
Byron	Hammerschmidt	Skelton
Craig	Hutto	Thomas (CA)
Dornan (CA)	Lukens, Donald	Watkins
Flippo	Nelson	Wheat
Ford (TN)	Oberstar	Young (AK)

□ 1237

The Clerk announced the following pair:

On this vote:

Mr. Craig for, with Mr. Nelson of Florida against.

Messrs. TAUKE and PAXON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SENSENBRENNER:

Strike section 107 and insert the following:

SEC. 107. ENFORCEMENT.

(a) IN GENERAL.—The remedies and procedures set forth in sections 706(a)-(f), 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)-(f), 2000e-6, 2000e-8, and 2000e-9) shall be available under this title, with respect to the Commission, the Attorney General, or any indivdiaul who believes that he or she is being subjected to discrimination on the basis of disability in violation of any provision of this title, or regulations promulgated under section 106, concerning employment.

(b) REMEDIES.—If, in any action brought pursuant to subsection (a) of this section, the court finds that the respondent has engaged in or is engaging in unlawful employment practices prohibited by this was charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union, or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of disability.

(c) APPLICATION OF OTHER LAW.—The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101-115) shall not apply with respect to civil actions brought under this section.

(d) PROCEEDINGS TO COMPEL COMPLIANCE.—In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought by the Commission or an individual under this section, the Commission may commerce proceedings to compel compliance with such order.

(e) APPEAL.—Any civil action brought under this section and any proceeding brought under subsection (d) shall be subject to appeal as provided in sections 1291 and 1292 of title 28, United States Code.

(f) EXCLUSIVITY OF REMEDIES.—The remedies and procedures set forth in this section shall be the sole remedies and procedures for violations of this title, except that the principles of construction set forth in subsections (a) and (b) of section 501 are fully applicable to this title.

The CHAIRMAN. The gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 30 minutes, and the gentleman from California [Mr. EDWARDS] will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Wisconsin [Mr. SENSENBRENNER].

MODIFICATION TO AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I ask unanimous consent to make a technical change in the amendment as reported in House Report No. 101-488. On line 4 of section (b), the word "was" should be changed to "as."

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

There was no objection.

The CHAIRMAN. The amendment is modified.

The text of the amendment, as modified, is as follows:

Strike section 107 and insert the following:

SEC. 107 ENFORCEMENT.

(a) IN GENERAL.—The remedies and procedures set forth in sections 706 (a)-(f), 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)-(f), 2000e-6, 2000e-8, and 2000e-9) shall be available under this title, with respect to the Commission, the Attorney General, or any individual who believes that he or she is being subjected to discrimination on the basis of disability in violation of any provision of this title, or regulations promulgated under section 106, concerning employment.

(b) REMEDIES.—If, in any action brought pursuant to subsection (a) of this section, the court finds that the respondent has engaged in or is engaging in unlawful employment practices prohibited by this title as charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union, or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of disability.

(c) APPLICATION OF OTHER LAW.—The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101-115) shall not apply with respect to civil actions brought under this section.

(d) PROCEEDINGS TO COMPEL COMPLIANCE.—In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought by the Commission or an individual under this section, the Commission may commence proceedings to compel compliance with such order.

(e) APPEAL.—Any civil action, brought under this section and any proceeding brought under subsection (d) shall be subject to appeal as provided is sections 1291 and 1292 of title 28, United States Code.

(f) EXCLUSIVITY OF REMEDIES.—The remedies and procedures set forth in this section shall be the sole remedies and procedures for violations of this title, except that the principles of construction set forth in subsections (a) and (b) of section 501 are fully applicable to this title.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 6 minutes and 15 seconds.

Mr. Chairman, the amendment which I am sponsoring addresses the remedies provisions of the employment title of the Americans With Disabilities Act, H.R. 2273.

Currently, the ADA adopts the remedies provided by title VII of the Civil Rights Act of 1964. After pursuing the mandatory EEOC process, a plaintiff can bring a lawsuit in a local Federal district court to get back pay, with interest, injunctive relief, reinstatement, and attorneys' fees.

The purpose of this amendment is to clarify that the ADA calls for equitable relief as a remedy for employment discrimination. The amendment will neither expand nor contract the employment remedies currently available under the ADA which are the same as those afforded to women and racial minorities.

The intention of the amendment is not to provide lesser remedies for individuals with disabilities nor is it to put persons with disabilities at risk with respect to their rights under law, as some have alleged. On the contrary, I have wholeheartedly supported the Americans With Disabilities Act and have been working since the Subcommittee on Civil and Constitutional Rights first held hearings last summer to ensure that the bill provides meaningful opportunities for the disabled through elimination of discrimination.

This amendment will simply delink the remedies for employment discrimination in the Americans With Disabilities Act from the remedies contained in title VII of the Civil Rights Act of 1964.

Presently, the proposed Civil Rights Act of 1990—H.R. 4000—would amend title VII to provide for jury trials and compensatory and punitive damages remedies for intentional discrimination.

If H.R. 4000 is passed in its present form, punitive and compensatory damages would be back in the ADA. Not only does this break the deal previously agreed to, it would be quite a hit to the business community to subject them to punitive and compensatory damages for a newly enacted and comprehensive piece of legislation.

As originally introduced, the Americans With Disabilities Act would have provided greater remedies for the disabled than provided under current title VII law. H.R. 2273 originally contained a provision calling for the "remedies and procedures available under section 1981" of the Civil Rights Act of 1866. Section 1981 has been interpreted by the courts to allow for recovery of punitive and compensatory damages and jury trials in certain cases of employment discrimination. Inclusion of this language in the original version of the ADA would have allowed the recovery of expanded damages and jury trials for employment discrimination against the disabled under the ADA.

After intense negotiations between the other body and the Bush administration, an agreement was reached in August 1989 to, among other items, delete the reference to section 1981 procedures from the employment remedies provision in exchange for broadening the coverage under the public accommodations title. Thus, the ADA's employment remedies were limited to current title VII remedies. The decision was made to provide traditional "make whole" remedies in order to avoid the excessive and unnecessary litigation the original remedies provision would have caused. With this significant change, the other body passed the bill on September 7, 1989, by a vote of 76 to 8 and it was sent to the House for consideration.

This understanding of the deal reached on the ADA was expressed in a letter from Attorney General Thornburgh, on March 12, 1990. The letter stated:

A very critical element of this bill was that, as under title VII of the Civil Rights Act of 1964, the remedies it made available for violations of the employment title were limited to nondamage remedies that can be obtained in a trial before a judge. That formulation was crucial to the thrust and structure of a number of critical sections of the legislation. Because we were emulating the remedial scheme of title VII, those remedies were simply incorporated by reference. In return, the administration agreed to broad coverage under the public accommodations title, e.g. retail stores, doctors' and lawyers' offices, drug stores, and grocery stores—all establishments necessary for people with disabilities to be truly in the mainstream. This coverage is much broader than title II of the Civil Rights Act of 1964, which essentially prohibits discrimination on the basis of race in hotels, motels, restaurants, gas stations, and places of public entertainment.

The Kennedy-Hawkins bill would greatly expand the remedies available under title VII and hence, by reference, the remedies in the employment title of the ADA. The administration is opposed to that aspect of Kennedy-Hawkins. The ADA need not be held hostage to the legislative outcome on Kennedy-Hawkins, however, in order to ensure that a critical element of the agreement struck previously will be observed.

We want to work with Congress to resolve this problem. Accordingly, we have proposed that [the] incorporation by reference of title VII remedies be amended to spell out the precise remedies available under the ADA.

We . . . actively support such a clarifying amendment and continue to support expeditious passage of the ADA with this clarification.

Four committees of the House reviewed the Americans With Disabilities Act. Of those four, the Committee on Education and Labor, and the Committee on the Judiciary specifically considered the employment remedies provisions of the ADA. When the Committee on Education and Labor held its markup of H.R. 2273, the understanding was that the ADA's employment remedies were the equitable remedies of title VII—no more, no less. Again, when our Subcommittee on Civil and Constitutional Rights held hearings last fall, we understood that the remedies had previously included punitive and compensatory damages, but that the make-whole remedies of title VII had been agreed to be the disability and business communities, the White House, and the other body in order to ensure passage of the legislation. There was no indication that "if those remedies [would be] amended in the future, such remedies [would] also apply to the ADA."

The argument now raised in opposition to this amendment, that through the committee process, the House has somehow lent its support to the inclusion of title VII remedies in the ADA, "as they exist now or as they may be amended in the future" is simply not true. It was not until the introduction of H.R. 4000, in fact, that this Orwellian rewrite of legislative history appeared.

In addition, expansion of remedies, especially in the context of a new and comprehensive piece of legislation is illadvised. Employers and employees have had more than 25 years of experience with the procedures and remedies of title VII for discrimination based on race, color, religion, sex, or national origin. In enacting title VII and other employment discrimination statutes, Congress has consistently pursued a policy of encouraging mediation and conciliation in resolving disputes and in avoiding unnecessary litigation.

Although Federal agencies and recipients of Federal funds have been covered under the Rehabilitation Act prohibiting discrimination against the disabled since 1973, the mainstream of society, the retail stores, doctors' and lawyers' offices, drug stores, and grocery stores have no experience in compliance with antidiscrimination laws against the disabled. The possibility of a compensatory and/or punitive damages award and a jury trial in employment disputes, therefore, raises the stakes much higher without any corresponding increasing benefit to the disabled.

In order to be effective at eliminating discrimination against the disabled, the active cooperation of business will be required. I believe it is sound policy is to have the money that businesses spend to comply with the

ADA used to make facilities accessible and provide additional employment opportunities for the disabled rather than to provide a windfall to ambulance chasing attorneys.

Last week, at a Rose Garden ceremony honoring the U.S. Commission on Civil Rights, President Bush reaffirmed this principal stating:

> Our civil rights laws . . . should not be turned into some lawyer's bonanza, encouraging litigation at the expense of conciliation, mediation, or settlement.

I am convinced that this coupling of title VII remedies in the ADA with those in the Civil Rights Act of 1964 will unnecessarily open the door for the diversion of funds into the courtroom by padding the pockets of the lawyers rather than providing access to the disabled.

In conclusion, I want to stress that this is a modest amendment which in no way forecloses any of the rights of the disabled. It may be that the disabled should be accorded the benefit of expanded remedies—although I agree with President Bush that the make-whole remedies currently embodied in title VII are the better policy—however, there is virtually no legislative record in the House on which to base that determination. The issue was simply not considered in any reasoned manner by any of the committees having jurisdiction over the matter. In the future, if such a determination is deemed appropriate it should be consciously decided on the basis of a clear and comprehensive legislative record, not boot-strapped to another piece of legislation.

The administration supports House passage of H.R. 2273 and strongly urges the adoption of the amendment to include the specific employment discrimination remedies of title VII of the Civil Rights Act of 1964, rather than to incorporate those remedies by reference. I urge your support of the amendment as well.

□ 1250

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to make sure I understand what the gentleman is saying. It sounds to me like the gentleman's complaint is about the legislation dealing with title VII that may or may not come on later on. But if we adopted the gentleman's amendment and then later on the House decided there should be more expansive remedies for title VII, you would be precluding the disabled, treating them differently if we adopt this amendment.

Mr. SENSENBRENNER. Absolutely not. If H.R. 4000 is to expand remedies in the ADA, the adoption of my amendment will simply require you and the other supporters of H.R. 4000 to state how the remedies in the ADA will be expanded less than 2 or 3 months after President Bush signs this bill.

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

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the Sensenbrenner amendment and in strong support of the Americans With Disabilities Act and urge my colleagues to vote for this critical legislation to extend basic civil rights to 43 million disabled Americans.

I thank my colleagues from the four House committees who have worked hard to bring this legislation to the floor today. The modifications made by these committees have improved and clarified the bill. I commend the chairman of the Democratic Caucus STENY HOYER for his leadership in shepherding this bill through the House. Finally, I would like to thank our former colleague Tony Coelho whose early and strong support of rights for the disabled is in large part responsible for our actions here today. Tony felt the effects of discrimination first hand when he was prevented from entering the priesthood because he had epilepsy. Although he won't be voting for this bill today, his vision and hard work have certainly paved the way for our consideration of this landmark legislation.

The late Senator Hubert Humphrey spoke about the moral test of government being how it treats those in the shadows of life, the sick, the needy, and the handicapped. For too long, the disabled have lived in the shadows of American life. They have been denied rights and opportunities afforded to others in our society. They have had a vague and imperfect imitation of the rights we take for granted—the right to work, the right to communicate, the right to live in the community—without fear of discrimination.

Mr. Chairman, disabled Americans are stepping out of the shadow world of the past. They are dismantling the physical and psychological barriers which get in the way of their full participation in our society. Who can forget the students at Gallaudet University who rose up in a stirring protest for equal rights for the disabled. Their actions led to the selection of a deaf president for the first time in the university's history and inspired people all over the world. Every day, other barriers are broken in less public though no less important ways. These heroic efforts are changing the way we think and treat the disabled.

Today we have an opportunity to shine the bright light of equality and justice onto the shadow world of discrimination. The Americans With Disabilities Act provides a comprehensive national mandate to end discrimination against individuals with disabilities and brings these people into the mainstream of social and economic life in the United States.

The bill prohibits discrimination in employment in a fair and realistic way. The daily discrimination against the disabled in employment situations is not only harmful to the individuals involved but also to the productivity of the Nation as a whole. Although two-thirds of disabled Americans age 16 to 64 are unemployed, 66 percent of the nonworking disabled want to work. Disabled Americans who are qualified to work in a position should not be discriminated against. This bill will put an end to this practice without disrupting business. Businesses have 2 to 4 years to make reasonable accommodations for a person with a disability unless those accommodations would impose an undue hardship on the employer.

The bill has important provisions for improving the accessibility of public transportation as well. It requires transit authorities to make transportation facilities accessible to persons with disabilities, including those in wheelchairs. Lifts must be provided for all new vehicles but no retrofitting is required. Paratransit services, which have been quite successful in my state of Minnesota, must be provided for those individuals who cannot use mainline service.

Other provisions of the Americans With Disabilities Act will improve the quality of life for the disabled. The bill provides for relay services to ensure telephone communications for the speech and hearing impaired. The measure also requires that all television public service announcements that are produced with Federal funding include close captioning for the hearing impaired. I am pleased that Congress is including itself under all parts of this important bill.

Mr. Chairman, I am glad that this bill has received strong bipartisan support in Congress and from the President. I expect the President to sign this bill and hope he will be supporting other civil rights legislation in the future. I urge my colleagues to support the Americans With Disabilities Act and oppose any amendments to weaken the bill. Our fellow disabled Americans deserve no less, they have long waited for this day when public law and policy recognize their needs indeed their rights to be a full participant in our society today and tomorrow.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I also rise in opposition to the Sensenbrenner amendment and in support of the legislation.

Mr. Chairman, I rise in strong support of the Americans With Disabilities Act. Specifically, I wanted to discuss the public accommodations requirements of this legislation, which are critical provisions for ensuring the right and ability of disabled citizens to participate equally in the life of their communities.

This section of the legislation builds on many successful precedents in State and local law. States like California, Pennsylvania, New York, North Carolina, Massachusetts, Connecticut, Iowa, Illinois, and others have offered models on which many aspects of the ADA are based. Thus, these locations can serve as a laboratory for judging the success or failure of such requirements, both in terms of how much accessibility is provided, and whether or not the requirements posed too

great a burden on operators of public accommodations, including small businesses.

On both questions, these experiments have been a big success, laying the groundwork for the ADA to increase benefits derived from such policies to millions of disabled Americans nationwide, on a uniform basis, in every State.

Mr. Chairman, the ADA's requirements are especially modest in regard to existing accommodations. Facilities in operation today must remove barriers only if doing so is easily accomplished and able to be carried out without much difficulty or expense.

If removing a barrier is not readily achievable, the service available to other patrons of the public accommodation must be provided the disabled persons via alternative methods if this can be done easily and inexpensively.

It should be noted that there are existing tax deductions that business operators can take advantage of, providing an incentive for compliance with this aspect of the ADA. A deduction of up to $35,000 can be taken for money spent on access features.

The provision of auxiliary aids and services are required, but only if providing them does not pose an undue burden.

In determining whether removing a barrier is readily achievable, the ADA lays out certain factors that are to be considered. They include:

First, the overall size of the business, including number of employees; number, type, and location of facilities; and the financial resources of the business and its individual facilities;

Second, the type of operation, including the composition and structure of the work force; and

Third, the nature and cost of the barrier removal.

The ADA explicitly allows businesses to consider the resources not only of the overall parent company to remove barriers, but the possibly more limited resources available at the particular location the barrier is to be removed.

The reason this standard is so important is because, contrary to common belief, many times, architectural barrier removal is not very expensive. Virtually every facility can greatly enhance its usability by disabled people without bearing an economic burden.

To give a few examples, facilities can: Install a permanent or portable ramp over an entrance step; install offset hinges to widen a doorway; relocate a vending maching to clear an accessible path; install appropriate handrails at stairs; create a designated parking space reserved for disabled persons; install a grab bar in an existing restroom; relocate stall partitions to make one restroom stall large enough to provide wheelchair maneuvering space; make closet rods adjustable for use at multiple heights; install signals to indicate accessible routes and features within buildings; install raised tactile labels on existing elevator panels; install an adapted elevator control panel or a wand for access to high control buttons; and install a Telecommunications Device for the Deaf [TDD] for use by deaf people.

These modest efforts can make a world of difference for persons with disabilities. The ADA's provisions on existing buildings are designed to make the owners of public accommodations think about the types of barriers which people with disabilities encounter, and to remove them if it can be done easily.

Mr. EDWARDS of California. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. Chairman, the heart of the Americans With Disabilities Act is to give the same civil rights protection to persons with disabilities that racial minorities and women have.

These rights include remedies available to the victims. The victims of discrimination based on disability must not have lesser rights than others. This would amount to discrimination against persons with disabilities.

The Sensenbrenner amendment looks into the future and says that if the remedies for minority and women victims are strengthened, these remedies won't apply to persons with disabilities. Women and minorities will get better treatment than persons with disabilities. That is gross discrimination, in advance.

The remedies for employment discrimination in this bill are the same as the remedies of title VII of the Civil Rights Act of 1964: equitable relief—injunctions, reinstatement, hiring, and backpay.

Compensatory and punitive damages are not available to victims of employment discrimination, under both title VII and the ADA.

However, in a few weeks, if approved by the House Judiciary Committee, we will be voting on H.R. 4000, the Civil Rights Act of 1990.

As approved by the Education and Labor Committee, H.R. 4000 would provide compensatory and punitive damages for victims of intentional discrimination under title VII.

If H.R. 4000 is enacted with this provision, the remedies under this bill we are considering today, the ADA, would be strengthened, to be parallel with the remedies provided in H.R. 4000.

And they should be parallel. The remedies for victims of discrimination because of disability should be the same as the remedies for victims of race, color, religion, sex, and national origin discrimination.

Otherwise, persons with disabilities would be discriminated against.

The remedies should remain the same, for minorities, for women, and for persons with disabilities.

No more. No less.

Mr. SENSENBRENNER's amendment provides for a two-tier system, where women and minorities get a better break than persons with disabilities.

That's not fair. That's not equitable. That's discrimination.

Finally, Mr. Chairman, Mr. SENSENBRENNER's amendment is premature. We will in all probability be addressing the question of remedies for title VII in a few weeks when H.R. 4000 is before us.

We should not be doing it now. When H.R. 4000 is before us, that will be the appropriate time to consider the remedies for employment discrimination.

This bill, the Americans With Disabilities Act, provides for the same remedies as for a title VII violation—injunctions, reinstatement, hiring, and backpay.

Let's not discriminate in advance against persons with disabilities. Let's debate and vote on this issue at the proper time, when the change to title VII is considered as we vote on H.R. 4000.

I urge a "no" vote on the Sensenbrenner amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. Mr. Chairman, I yield to the gentleman from Wisconsin, [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, if the gentleman from California had been listening to my prepared remarks, he would have heard me state that my amendment merely states the remedies that are available in title VII within the ADA. The gentleman has alleged in his remarks that I am treating disabled people less favorably than women and other minorities.

Specifically, I inquire of the gentleman from California where in my amendment are women and other minorities given more favorable treatment than disabled people?

Mr. EDWARDS of California. Mr. Chairman, in response to the gentleman, the gentleman's amendment is locking out persons with disabilities for stronger remedies than women and minorities will receive in the event H.R. 4000 is approved, as approved by the Committee on Education and Labor.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. Mr. Chairman, I yield to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman from California is making a very important statement. What he is saying is we have said there are no rights without remedies. But you have lesser rights if you have lesser remedies. And the committee is soon to determine whether we are going to expand remedies. At that point that is where the gentleman should be debating this issue. In the interim, we should not preemptively decide that disabled are not going to be able to participate at that time. I think the

gentleman is making an excellent statement.

Mr. Chairman, I rise in opposition to the Sensenbrenner amendment.

I thank the gentleman from California for making this so clear.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I must preface my remarks by saying the last debate blew my mind. I thought we always legislated here on the floor of the House dealing with the legislation that is presently on the books. I did not know that we legislated based on what we think might happen down the track. If something happens down the track, then we come back and deal with that issue, but we certainly do not deal with it in advance.

Mr. Chairman, I rise in support of the amendment, and I do it for two basic reasons. First of all, the issue here today is a straightforward issue. It was agreed to by the administration, by the other body, by the disabled community. That is what was agreed to when, in a bipartisan fashion, the Senate fashioned the legislation 76 to 8.

□ 1300

That is exactly what we dealt with in the Committee on Education and Labor, not something else. We dealt with what the understanding was when the Senate passed the legislation.

So first of all, it seems to me we must stick with what it was we were dealing with and what we understood was the agreed-to agreement. That did not say anything more than title VII remedies of lost backpay and injunctive relief. It was a unanimous vote out of my committee simply based on that. That vote would have been different in my community, had we thought that we were talking about something different than what we agreed to by the other body, by the disabled community, and by the White House.

The second concern that I have I think deals with the whole body concept of trying to do what is best for the persons for whom we are trying to legislate. I have some problems here if we do not go along with the Sensenbrenner amendment. It seems to me what we basically say is we are not looking for reconciliation, we are looking for confrontation. I am not sure that helps the disabled person we are trying to help. It seems to me we want to quickly get them back on the job, backpay, and all that they have coming to them.

For instance, in my district, a gentleman hired a blind young woman. She is now his best drill press operator. He modified the drill press so that she could become his best drill press operator. Would she have ever gotten that opportunity with this legislation?

Mr. EDWARDS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in opposition to the Sensenbrenner amendment. The whole purpose of the Americans With Disabilities Act is to recognize that discrimination against the disabled is just as wrong as discrimination on the basis of race, gender, or national origin. Ironically, this amendment would take a big step backward in the battle against discrimination by setting the disabled apart from other protected classes under the civil rights laws.

There may be legitimate debate on the issue of what remedies should be available under the civil rights laws, but it is unfair to lock the disabled into a lesser set of remedies. Let's debate the issue of remedies available to all protected classes when the Civil Rights Act of 1990 comes to the floor. It would be a serious blow to the disabled community to adopt this amendment.

I hope that the focus on lawsuits and remedies does not distract us from what this bill is about: new rights for the disabled. Rights and remedies are not the same thing, and I believe a court of law should be the place of last resort, not first resort, to enforce civil rights. A lawsuit is time consuming and expensive. I believe Americans are generally too prone to rush into court to resolve disputes that should be resolved through conciliation. I want to issue a challenge to the business and civil rights communities to find informal and creative ways to exercise the new rights granted under the ADA, so that people's precious time and money is spent on reasonable accommodation instead of litigation. In that regard, this bill includes an amendment I offered in the Judiciary Committee which encourages and provides for alternative resolution techniques, including mediator, conciliation, arbitration, and other dispute resolution methods to resolve disputes under this act before a decision to go into expensive litigation is made. While the language is purely voluntary, it establishes an important principle that we ought to try to avoid litigation under this bill, if possible, and that encouraging dispute resolution between the parties is a positive idea.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I have consistently supported in subcommittee and committee the Americans With Disabilities Act, and will certainly support it when it comes to final passage, because I believe this legislation will not only benefit the disabled, but ultimately all of America, as more disabled find it easier to enter the mainstream of American life and the mainstream of employment.

I support the Sensenbrenner amendment because I believe it is the most reasonable and least confrontational way to implement the very worthy objectives of this legislation. If this legislation is to be successful, it needs not only a consensus among those of us responsible for making the laws in Washington, but a broad consensus of all people throughout our country. The Sensenbrenner amendment removes a potentially overly punitive portion of this bill which may get in the way of this necessary broad consensus.

I urge my colleagues to support this important amendment.

The CHAIRMAN. The Chair will advise the author of the amendment, the gentleman from Wisconsin [Mr. SENSENBRENNER] that he has 20 minutes remaining, and the gentleman from California [Mr. EDWARDS] in opposition has 21 minutes remaining.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I do not even think I will use the entire 3 minutes because I think it is difficult not to be repetitious, since the issue here is so simple.

My colleague, the gentleman from Wisconsin [Mr. SENSENBRENNER], the author of the amendment, has very properly stated the law for Members, and I think we both share a sore throat and other ailments at this juncture, too. However, the Sensenbrenner amendment would freeze current title VII remedies into ADA for people with disabilities. Now, let me emphasize that word "current."

The bill before Members incorporates title VII remedies available today, this very minute, available to women and to minorities. It does not enlarge these remedies. It provides immediate parallel remedies. However, the amendment before Members would mean that if Congress chose to change the remedies under title VII for all other minorities, people with disabilities would simply not automatically have access to these same remedies.

Therefore, as the gentleman from Wisconsin properly said, his amendment neither expands nor contracts remedies but, in fact, he does freeze those remedies unnecessarily and forces the Congress at a later date to revisit this issue and undo that freeze if it so chooses.

Now, we have been told about H.R. 4000, the Civil Rights Act of 1990 that has been introduced that will be before Members eventually. This expands the remedies of title VII to include damages for intentional discrimination. So if there are changes to title VII, as a result of this legislation, and only at that time, all individuals who are covered under civil rights laws, people of different races, sex, religion, and now people with disabilities, would have the same remedies. By contrast, if we adopt this amendment, by freezing current title VII remedies for the disabled, we set up at that time a different system of remedies.

Mr. Chairman, it is inconceivable to me that future changes in title VII remedies would not automatically apply to disabled citizens as it is inconceivable to me that a future expansion in title VII will be denied people because of their race or their sex.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. FISH. Mr. Chairman, I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

If my amendment is adopted, what is there to prevent the House, when it considers H.R. 4000, from amending the remedy section in the ADA?

Mr. FISH. Nothing whatsoever, except it is just an unnecessary step, in my judgment. The remedies under the law should flow to all the protected covered classes.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I rise in strong support of the amendment offered by my colleague from Wisconsin.

Mr. Chairman, I have taken an interest in the Americans With Disabilities Act since it was introduced last Congress, and I have always strongly believed that legislation is needed to extend basic civil rights to the disabled. I was, therefore, gratified when negotiations this past summer between the administration and the disability community, with input from the business community, produced a bill which seemed to resolve the most significant obstacles to enacting legislation in this Congress. That bill, S. 933, passed the Senate last year in early September, Mr. Chairman, while S. 933 contained many important changes, I can say quite categorically that the most important change which formed the keystone to the agreement was the express deletion of a provision allowing for punitive and compensatory damages from the employment remedy provisions and the retention of existing title VII remedies of lost backpay and benefits and injunctive relief such as reinstatement to a lost job.

Mr. Chairman, when the Education and Labor Committee marked up H.R. 2273, it took as a substitute to that bill a modified version of S. 933 as passed by the Senate. The modifications contained in that substitute were the result of lengthy, intense negotiations between the minority and majority on the committee together with the leading sponsor of the legislation, Mr. HOYER. I was very much involved in those negotiations and can state that the issue of proper remedies for employment discrimination rarely, if ever, came up. Why? Because all parties considered the issue completely resolved in the Senate-passed bill. Had there been any doubt as to whether the ADA still included punitive and compensatory damages, the issue would have been raised, endlessly debated, and never conceded. Indeed, the inclusion of such damages has proven to be one of the most contentious issues surrounding the Civil Rights Act of 1990.

Mr. Chairman, when the ADA was unanimously passed by the Education and Labor Committee last year—November 1989—it was months before the civil rights reform bill was even introduced—Feb. 1990. Again, the assumption at that time, as we were considering the Senate-passed version, was that employment remedies were to be backpay and injunctive relief. Mr. Chairman, the Sensenbrenner amendment simply codifies what the committees reported out.

None of this is to say, of course, that should the Congress ultimately choose to pass the civil rights reform bill with punitive and compensatory damages, that Congress could not, ultimately also decide that the ADA should also include such damages. But this sort of major change in a new, sweeping piece of legislation should not be done automatically by the flip of a switch. It should be done, if at all, after hearings within the appropriate committee structure.

Finally, Mr. Chairman—and I won't dwell on this because it should be raised at a different time and a different forum—I simply wish to note that there are good policy reasons why the inclusion of punitive and compensatory damages in the ADA would be inappropriate.

The remedies codified by the Sensenbrenner amendment have been in title VII of the 1964 Civil Rights Act for 25 years, and they have worked well. These remedies are basically the same as those in all other labor and civil statutes, for example, the National Labor Relation Act, the Rehabilitation Act of 1973, the Davis-Bacon Act, the Equal Pay Act, the Fair Labor Standards Act, the Age Discrimination in Employment Act, and, most recently, the Worker Adjustment and Retraining Notification Act—plant closings. These statutes, and I could list others, provide for injunctive relief and lost backpay, with only one providing for double lost backpay in certain kinds of cases. None provide for punitive and compensatory damages.

There are sound policy reasons why Congress has consistently adopted these types of remedies in employment law statutes. Remedies allowing for injunctive relief and backpay, and excluding punitive and compensatory damages, both deter discrimination and promote the prompt resolution of disputes, a resolution which puts the employee back to work in his or her rightful position as soon as possible. This has always been the goal of title VII and other employment law statutes and, I think everyone would agree, is the goal of the ADA. Employment laws must balance first, the need for employers to operate their workplaces without fear that a refusal to hire a single applicant or the discharge of one employee may lead to a six-figure, or higher, jury trial and second, the need to provide an adquate remedy once a wrong is shown to make the employee whole. Interwoven with this balancing is the concept that it is in everyone's interest—including society's—to get an applicant or employee unlawfully discriminated against back to work as soon as possible. Remedies of injunctive relief and lost backpay and benefits do exactly this while punitive and compensatory damages may only encourage employees to go to court for the "big win" and to resist settlement and resolution of the underlying issues. This is not some prediction made up yesterday; it is a well-recognized result arising from these kinds of damages, as reflected by the analysis in numerous courts which considered, and ultimately rejected, compensatory and punitive damages under the Age Discrimination in Employment Act [ADEA]. For example, the third circuit, in *Rogers* v. *Exxon Research & Engineering Co.*, 550 F.2d 834, 841 (1977) reasoned that compensatory damages would:

> Introduce an element of uncertainty which would impair the conciliation process. Haggling over an appropriate sum could become a three-sided conflict among the employer, the [EEOC], and the claimant. . . . [T]he possibility of recovering a large verdict for pain and suffering will make a claimant less than enthusiastic about accepting a settlement for only out-of-pocket loss in the administrative phase of the case. The net result can only be to substantially increase the volume of litigation in the trials.

The fifth circuit echoed that compensatory damages would:

> Introduc[e] a volatile ingredient into the tripartite negotiations involving [EEOC], employee, and employer which might well be calculated to frustrate rather than to "effectuate the purposes" of the Act. [*Dean* v. *American Security Insurance Co.*, 559 F.2d 1036, 1039 (1977), *cert. denied*, 434 U.S. 1066 (1978)].

The second circuit has said:

If an individual alleging discrimination knew he could recover compensatory damages if he refused to settle during the administrative process and commenced a civil suit, he would have little incentive to resolve the dispute during the conciliation process. [*Johnson* v. *Al Tech Specialties Steel Corp.*, 34 FEP Cases 861, 864 (1984).

One trial court observed:

If large tort recoveries are allowable under the ADEA, it is doubtful that alleged age discriminatees will enter into good faith conference and conciliation when around the corner lies the possibility of large dollar pain and suffering recoveries. [*Sant* v. *Mack Trucks, Inc.*, 424 F. Supp. 621 (N.D. Cal. 1976)].

Mr. Chairman, the Sensenbrenner amendment adopts the remedies which formed the basis for the broad bipartisan support of the ADA. These remedies, which are reflected in all other labor statutes, will both deter discrimination and promote the employment of the disabled. I therefore support the amendment.

□ 1310

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Chairman, I would like to say to my colleagues, the gentleman from Wisconsin [Mr. SENSENBRENNER] and the gentleman from Texas [Mr. BARTLETT], that I am going to yield to them during my time because I want to engage in some conversation. It did not appear to me that the other side wanted to yield any time for that purpose.

Let me just ask the gentleman this question. I have 3 minutes, and I think between the two gentlemen they ought to be able to answer these questions.

Are you opposed to compensatory and punitive damages by any kind of civil rights violation, a violation of any kind or character? I assume the answer is going to be yes.

My second question is, if you are so opposed, in the likely event that the Congress in its wisdom decides, notwithstanding your objections, to provide that a jury, the same people who elect you and I, may make a determination whether in a proper case there should be punitive damages and compensatory damages allowed for other kinds of discrimination, are you then in favor of discriminating against people who have disabilities?

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. WASHINGTON. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I know that the gentleman did not intend to word his last question that way. I am not in favor of discriminating against persons with disabilities. I am strongly for a law that would prohibit discrimination. The question is, how much can someone sue for, not whether I am in favor of discriminating.

Mr. WASHINGTON. Mr. Chairman, let me elaborate on my question. I only have 3 minutes, and I do not want there to be any misconception.

If the Congress, over the gentleman's objection, adopts the language in H.R. 4000 that provides in a proper case for a jury to make a determination, or for the judge, if he or she is the trier of the facts, that there will be in such a proper case punitive and compensatory damages for race, gender, age discrimination, and the other provisions that are covered under title VII, would you not agree that it is not provided for people with disability, and if you so agree, are you in favor of discriminating against them or are you not in favor of discriminating against them?

Mr. BARTLETT. Mr. Chairman, if the gentleman will yield, I do not agree with the premise of the gentleman's question. I do not believe that is discriminatory. What I do believe is that we ought to consider the damages and the remedies and the right to sue in landmark legislation like this after some careful consideration, based on all the facts, and we do not have all the facts. We ought to consider it at that time.

I further say to the gentleman that I have a list which I am going to submit for the RECORD of other civil rights and labor statutes that have been enacted by the Congress of the United States, none of which include compensatory or punitive damages. They include the National Labor Relations Act and the Rehabilitation Act of 1973.

Mr. WASHINGTON. Mr. Chairman, the gentleman can put those in the RECORD later. Let me reclaim my time, and then I will yield further to the gentleman.

We have had hearings, as the gentleman well knows, on H.R. 4000, because the gentleman has been a part of them. So the gentleman cannot say that there has not been any record made on whether we should have compensatory or punitive damages. We can say that it has not been made as far as ADA has been concerned, but we have had a record made, and I think Congress is of a mind to provide compensatory and punitive damages as they relate to other areas of civil rights.

And the gentleman cannot tell me that it is not discriminating. If we have apples and oranges, and you choose one remedy for the apples and a different remedy for the oranges, if that is not discrimination, I do not know what is.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, the Americans With Disabilities Act of 1990 is well intentioned, but it is more than that. It is an effort to lift the conscience level of us all to be more aware that the disabled, like all of us, have aspirations and talents and hopes and dreams. This bill is an idea whose time has come.

Yet, as Albert Schweitzer once observed, hardly anyone ever gets a good idea that they do not carry it too darned far. It is for that reason that I rise to support the Sensenbrenner amendment.

The amendment literally adopts the traditional remedies of EEOC conciliation, back pay, and court injunctions as the remedies for the enforcement of employment-related discrimination under title I of the ADA. As such, it is a replica of the remedies found under title 7 of the 1964 Civil Rights Act.

The Sensenbrenner amendment simply says that what you see and what is advertised as the enforcement remedies in the ADA is what you get. It is true that it attempts to guarantee that the enforcement provisions of title I of ADA will not be automatically changed simply by passage of the Civil Rights Act of 1990. If this amendment is not passed and if the Civil Rights Act were to pass in its present form, the remedies of title I of the ADA would be immediately broadened in effect to create or to add, I might say, a new negligence type of liability against all employers of this land of ours with a 2-year tort statute of limitations.

This new action, also calling for jury trials, would authorize potential million-dollar compensatory damages for emotional distress, pain and suffering, medical fees, fees for expert witnesses, ad infinitum, and punitive damages, including callous indifferences as a basis for awarding punitive damages. These types of awards could be obtained against employers for any violations of the ADA. And as I read it, it also includes unintentional violations. If Members do not think so, I ask them to read section 107. I assure the Members that most employers all across this land, public or private, do not realize that they could be sued for such damage awards as a result of any violations of the ADA.

In the past, Congress has invariably limited remedies in the employment law area to conciliation, lost backpay, and injunctional relief, and the examples include not only title 7, but the Age Discrimination in Employment Act, the National Labor Relations Act, the Fair Labor Standards Act, the Equal Pay Act, the Davis-Bacon Act, the Service Contract Act, and the Rehabilitation Act of 1973.

□ 1320

In addition, Mr. Chairman, it has been mentioned that, as originally introduced, it was the understanding between the parties who were negotiating that we would not have compensatory and punitive damages and jury trials with all of the explosion of lawsuits that go with them. When we look at the Civil Rights Act, that is another issue, but we certainly did not want those kinds of potential damage awards in the ADA. And that is only right, especially for a new employment-related discrimination law of the ADA's dimensions.

Surely, Mr. Chairman, there are going to be countless violations of this act made unintentionally and in good faith as the EEOC, public and private employers, employees, and unions strive to detemine what in the world is the congressional intent and the scope of the ADA's understandably subjective provisions.

Under these circumstances, the traditional employment discrimination enforcement provisions of title VII, which have been successful for over 26 years, are certainly in order as we launch the ADA. If 3 or 4 years from now my colleagues think we have to have that kind of intimidation against employers, well, OK, we can consider that then. But when we are comparing, enforcement provisions, we should look at, for instance, the 1973 Rehabilitation Act which binds the Federal Government. Are there any compensatory damages there or any punitive damage awards there against the Federal Government or, for that matter, against Members of Congress as to their employment practices? Of course not.

Now we are going to have to debate the Civil Rights Act, but let us not with a brand new act like this, let us not pile those kinds of potential damage awards upon America's employers. It wasn't necessary in the 1973 Rehabilitation Act nor is it necessary in the ADA. Rather it is a kind of intimidation upon the employers. It simply puts a chilling effect upon what has really been good will of all parties involved in this act up to this date.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman from California [Mr. EDWARDS] for yielding me this time.

Mr. Chairman, I rise in strong opposition to this amendment. This amendment is about discriminating against the disabled, or it is about nothing at all. This amendment would not be needed in any way, shape or form unless there is a desire down the road to have different remedies, different protections for the disabled from the protections we give in our other civil rights legislation under title VII.

This bill, as it comes to the floor, is very clear. It says the remedies in title VII apply. That is a principled statement. That says that this law will treat the disabled the same as we treat others who are subjected to discrimination in employment and in public accommodations and the like. This is an antidiscrimination bill.

Mr. Chairman, it is an abomination that we are being faced with an amendment that suggests that right in this antidiscrimination bill we plant the seeds of discrimination, discriminatory treatment before the courts, discriminatory treatment before the law.

We will have a debate later in this session about whether to extend or modify the remedies under title VII, and, when we have that debate, we will hear the arguments about whether there should be jury trials, whether compensation and punitive damages are appropriate, and that is a fair debate. It is an appropriate debate. But it should apply to all those who are protected under Federal law against discrimination. It ought not to be one rule for the disabled, another rule for other minorities, religious minorities, racial minorities, ethnic minorities.

Mr. Chairman, we are about to pass landmark legislation to obtain a goal that I think Americans wholeheartedly support, real and antidiscrimination protection for people with disabilities. Let us not sully that result with an amendment that undercuts the principle. Let those who believe that present title VII remedies, as misinterpreted by the Supreme Court, are adequate. Let them vote against H.R. 4000 at the time it is presented. Let those of us who believe that the Supreme Court got it wrong and that H.R. 4000 is the correct policy; we will support that legislation.

Mr. Chairman, let us not today, as we make a strong statement against discrimination to the disabled, let us not put into that law a new discrimination in the justice that these individuals can get in our courts.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in favor of the amendment offered by the gentleman from Wisconsin [Mr. SENSENBRENNER] to H.R. 2273, the Americans With Disabilities Act.

The real questions before us as we consider this amendment are whether we can have certainty about what we are voting on and whether all the possible interactive effects between this bill and proposed changes to the Civil Rights Act of 1964 will receive full, due consideration.

I believe both these questions can be answered "yes" only if we adopt the Sensenbrenner amendment today.

I don't want to get caught up in an argument about the semantics of an agreement on remedies among proponents of this bill, the administration, and the business community. We all are agreed, however, that the title VII remedies in the Civil Rights Act today are the remedies we want in the ADA today. The Sensenbrenner amendment clarifies that position without prejudice to further evaluation of ADA remedies when H.R. 4000, making changes in the 1964 Civil Rights Act, is further considered. However, rejection of the Sensenbrenner amendment leaves us with a good deal of uncertainty over just what we really are voting for.

We have not debated increasing the penalties and upgrading the remedies in the ADA to include pain and suffering and punitive damages. We have not debated whether these penalties and remedies should be upgraded to parallel H.R. 4000 remedies exactly, if H.R. 4000 passes.

At least on first impression, it strikes this Member that such a debate would be reasonable.

Identical remedies on paper do not necessarily translate into identical results in the real world. For example, under current title VII remedies, injunctive relief for a race, religion, or sex-based violation could include simple placement in the job the plaintiff sought. Under the ADA, current title VII injunctive relief could require expensive alterations for accessibility in order to accomplish that job placement. Maybe we do want ADA remedies to be exactly the same as whatever remedies are available under title VII. Or, maybe we would want, after careful consideration of how the two laws could interact, to fine tune some differences, for purposes of equity and more consistent results.

If we reject the Sensenbrenner amendment today, we can't know that these questions will ever be addressed. If we adopt the Sensenbrenner amendment, we know they will be considered, and perhaps resolved in the very same way the opponents of the Sensenbrenner amendment hope. But we shouldn't put the legislative process on autopilot by dismissing the request for considered debate. We shouldn't avoid reasonable questions with a superficial one-size-will-fit-all attitude.

Moreover, this body has never made uniformity of remedies within a body of law sacrosanct. That's why, every time we take up a new labor bill, like family and medical leave 2 weeks ago, we wind up reopening debates about restitution versus punitive damages. Two weeks ago we were told the Family and Medical Leave Act should have remedies and damages that don't

exist elsewhere in labor law, but today we are being told we should not debate the issues the Sensenbrenner amendment would ultimately force us to debate, because all civil rights laws simply should look the same.

If the intent of the opponents of this amendment is to defer questions of remedies and damages and take them up all at one time, then I submit that a vote for the Sensenbrenner amendment accomplishes that better than a vote against.

A vote for the Sensenbrenner amendment ensures that, when we consider H.R. 4000, we will consider the remedies and damages that may be specifically or uniquely appropriate to ADA violations. A vote against Sensenbrenner means we are buying a legislative pig in a poke.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. HAWKINS], the chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Chairman, I thank the gentleman from California [Mr. EDWARDS] for yielding this time to me.

May I simply rise to set the record straight with respect to the references to the Committee on Education and Labor and the individuals who seem to anticipate action in the House on H.R. 4000?

Mr. Chairman, it is true that in its wisdom the committee, after extensive hearings, did make changes in the remedies under title VII and will, if approved by the House, extend the protections and the rights under title VII to other groups, particularly to women.

Now it seems that those who oppose that extension would today now oppose the extension to the disabled. The original theory of title VII was that rights and remedies should be uniformly available to all who suffer discrimination, and we have over a period of time under various administrations added the groups that are protected by title VII.

Now it just seems to me unreasonable to say that every other group that we have attempted to extend the protections to, that the disabled are somehow a second-class group that should not be considered.

Mr. Chairman, it is not only the matter of civil rights, and human rights and protection of groups in the American society. We extended title VII, and we originated title VII, because we considered that all Americans are needed in our society today.

□ 1330

We need the disabled, as we need women and we need minorities and other groups in the economy. We need them in our society as productive citizens. We need them as taxpayers so that they can produce the revenues to reduce the budget deficit. We do not want them to be dependent on other taxpayers. We want them to stand in a way equal to other taxpayers.

So it would seem to me that since we need them, they also need this protection.

Remedies have been dragged into this debate for some reason. I cannot conceive of individuals who are willing to say that individuals should be given legal protections and then not remedies. If protection is needed, so are remedies, and the two cannot be separated.

Having, it seems to me, lost the merit of the debate that certain citizens can be discriminated against in contrast to others, and having lost the debate on the question of dividing the protection among American citizens, someone has suggested that some deal has been made. I do not know how many in this House were parties to any deal that was made, but it certainly seems to me that any suggestion that a deal was made, and most of us are not aware of that deal, that those who made that deal should at least admit what type of a deal they entered into that would deal away the legal protections and the rights of over 24 million American citizens. I think we are entitled to know that.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, I rise in support of the Sensenbrenner amendment.

You know, I sit here with a little surprise and concern because I was in the Judiciary Committee when Chairman EDWARDS and the group on that side of the aisle pretty much made a very convincing argument that remedies were not to be discussed because it was title VII remedies without punitive damages and compensatory, and that was the understanding in relationship to our discussion, which was true. That was the law under title VII, and is.

Now, I see nothing fair about attacking the Sensenbrenner amendment as being discriminatory, because if there is to be discrimination, it will be later on when you file an amendment that will be different than the existing remedies.

The Sensenbrenner amendment says, leave the remedies like they are. It does not say anything about different remedies for someone else, but the anticipation is that it will be necessary to discriminate against the disabled, by the arguments I have heard here. So the reverse is true. The discrimination comes against the disabled by those who would separate the remedies that are already in title VII, which are incorporated by reference.

It is especially repugnant to pass a bill and then to wait later for the remedies.

Mr. Chairman, what we are talking about is bringing our citizens to their knees, to their knees when you give the plaintiff the right to open-end damages, open-end damages in the form of compensatory and in the form of punitive damages.

I have heard the remark made that it is only for intentional acts. I have heard lawyers say that. Lawyers know that an intentional act is always when you breach the law. There is no such thing as negligent breach of the law. So when the businessman goes out there and makes a mistake, that is not negligence. That is an intentional breach of the law, even though the regulations have not been put forth.

Mr. Chairman, the amendment is in order and I am for it.

Mr. Chairman, I rise in strong support of the Sensenbrenner amendment. The amendment would make a critical clarification by making the remedies for discrimination under the ADA identical with the remedies that currently exist under title VII of the 1964 Civil Rights Act. Those remedies include back pay with interest, injunctions, orders of reinstatement or promotion, and other equitable relief which a court may fashion. These remedies are designed to put the individual into the position that he or she would have been in but for the discrimination. They provide real redress to a victim of discrimination without creating an incentive to go to court in hopes of winning a windfall damage award.

Another bill pending in Congress, the Supreme Court reversal bill sponsored by Mr. HAWKINS, would change those remedies so that plaintiffs could seek punitive and compensatory damages. Punitive damages, which are awarded to the plaintiff, are designed to punish the employer for its acts. There is no dollar limit in the amount that can be awarded. Compensatory damages, also known as pain and suffering damages, are awarded to the plaintiff to compensate for things such as mental anguish. There is no dollar limit on these damages either.

It is important to note that the Federal courts have been deciding cases under title VII for more than 25 years. As such, they are in a particularly good posture to assess the potential negative impacts of adding punitive and compensatory damages to title VII, and by reference to the ADA. I have examples here of what some of these courts have said about including expanded damages under title VII, and they are very revealing.

One court has stated that: "The possibility of a large verdict for pain and suffering will make a claimant less than enthusiastic about accepting a settlement." Another court has said that, and I quote again, "A system which would permit complainants potentially to recover considerably larger sums if they resist settlement and initiate litigation would undermine the central features of title VII."

Mr. Chairman, the lesson in this is clear. We should defer to the wisdom of the courts and keep remedies for employment discrimination designed to redress the victim without encouraging costly litigation. That is what the amend-

ment does, and I urge all of my colleagues to give it their full support.

Mr. EDWARDS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, let me first extend congratulations to the committee chairman, the gentleman from California [Mr. EDWARDS], and the gentleman from Maryland [Mr. HOYER] and others, including the gentleman from California [Mr. HAWKINS], for the work the have done on this bill.

I rise in opposition to the gentleman's amendment, with great respect to him as one of the more thoughtful Members of our body, but it just seems to me in the sense of what is symmetrical and what is balanced here, and I happen to like symmetry and balance in architecture and other things, I think it would be unbalanced if we were to accept the Sensenbrenner amendment, because we would say that one class of people who are entitled to protection because they have been discriminated against would get one body of remedies, where another class of people, the same thing, they have been discriminated against, would get a second class of remedies.

So it seems to me, Mr. Chairman, to maintain the balance that there ought to be a reflection of that in the sense of the kind of remedies that are applied.

Let me also go beyond this to say that I think the bill itself is a wonderful piece of legislation. It is one of the major civil rights bills that this body will grapple with in the next Congress. I think it reflects a growing awareness, not just of altruism and charity and of doing something for people who need to have our attention, but this is a very important piece of legislation from our own self-interest as a nation. As we look down the road to the year 2000, and if we read the demographic studies, we will need people in the work force, people with talent, people with initiative, people with energy, and based upon my observations back home in Louisville at the Center for Successful Living, where I have had many opportunities to meet people who are disabled, I see in them this very pool of people with talent, energy, and intellect, that we need to accomplish our work as we go down toward the year 2000 to be competitive with the other nations of the world.

So I think this is a good bill from kind of a laboratory setting. It is a good bill because it does good things, but even more important than that, it does good things because it does smart things.

So again I oppose the gentleman's amendment, but rise in very strong support of the bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I thank my friend and colleague for yielding me this time.

Mr. Chairman, last week President Bush said that our civil rights laws should not encourage litigation at the expense of conciliation, mediation, or settlement. Yet if we don't adopt the Sensenbrenner amendment, that is exactly what could happen to the ADA.

First let me stress that the Sensenbrenner amendment guarantees to victims of discrimination the same rights and remedies that are available to other protected classes under title VII. It takes absolutely nothing away in terms of its protection. It is simply designed to state that Congress believes that title VII remedies are appropriate for both the ADA and for title VII and that they should remain as they are.

Many people do not realize that the actual award given in a lawsuit is just the tip of the iceberg in terms of the total litigation costs. The more the incentive to litigate—as would surely be the case if the ADA is expanded to include punitive and compensatory damages—the higher the litigation costs.

What happens if employment discrimination damages get expanded under ADA and title VII? Under title VII with its current remedies, only 6 percent of the charged filed with the EEOC end up as lawsuits. The rest are disposed of through title VII's mediation and conciliation procedures. Of those cases that go to trial—an average of over 1,500 cases litigated each year—the attorneys fees average more than $96,000 per case.

A recent study by the Employment Policy Foundation estimates that title VII litigation will triple if it includes punitive and compensatory damages. If ADA is included, with its 43 million potential plaintiffs, even more lawsuits are sure to result.

The ADA with the addition of the Sensenbrenner amendment, will assure that the law will open the door to the workplace, rather than the door to the courthouse.

Mr. Chairman, a vote for the Sensenbrenner amendment is a vote for continuing an effective policy with respect to remedies for employment discrimination which has been in effect for over 25 years. I urge its support.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. BENNETT].

□ 1340

Mr. BENNETT. Mr. Chairman, I have just two points to make. One of them has been made many times before. But I want to accentuate how deeply those who are disabled appreciate this legislation.

Mr. Chairman, it is a very compassionate, very fine piece of legislation, and I am grateful on behalf of all others, very grateful, for this having occurred.

The second point I would like to make is that it would be, in my opinion, very poor taste and improper for us to make a distinction between those who are physically disabled under the civil rights concept of our country and those who have other civil rights situations that are addressed by civil rights legislation. I say that with hesitancy, because I love the gentleman from Wisconsin. I served with him on the ethics committee, and he is a magnificent legislator. It is a great pleasure to have served with him.

But I do think that the committees are correct in approaching this matter by giving equal opportunity for all people who are disabled or who have any other problem which would require civil rights attention.

Mr. Chairman, I thank the committee for doing it. I do say, from the bottom of my heart, however, I think it would be a mistake to distinguish in some way between the various people whose civil rights are being addressed in this legislation.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding me this time on this point.

Mr. Chairman, I rise in strong support of the Sensenbrenner amendment. I think we need to understand, as we conclude this debate, what it is really all about. It is about a question of whether we are going to codify in the law the present remedies or leave them as the bill currently has it, tied ambiguously to whatever fate title VII has in the future as far as the remedies sections are concerned.

It seems to me, under the circumstances, it is eminently reasonable to do what the gentleman from Wisconsin [Mr. SENSENBRENNER] wants to do and spell out what the remedies are, and they are in existing law under title VII, are going to be the remedies for ADA regardless, at the moment at least, of what we do with title VII, that is, injunctive relief and those things that have been spelled out here before.

The reason I say that is fairly simple. The proposals that are out there now to change title VII are going to allow compensatory and punitive damages. The real problem I have had with the ADA bill altogether, and I am going to vote for this bill, even though a lot of people think that I am out here with a lot of amendments and I am opposed, I am not, because I think the disabled need to have a civil rights bill like this one.

I think the problem we have had all along has been costs. It has been a question of how do we mitigate, how do we reduce, costs. It is far more complex under the civil rights legislation for the handicapped than it is for race or sex or any other kind of discrimination. There may be as many as 900, some people say, 900 different disabilities covered by this legislation. There are innumerable different situations in the workplace where the handicapped of different types will intermesh, and those situations will have to be resolved hopefully through processes that are short of litigation. It will be expensive, and even if there is a resolution occasionally by litigation, that will undoubtedly be a very expensive route.

I am suggesting, I think, we ought to have the same remedies as title VII. I think we want to do that. But I am not sure. I do not see any harm to letting us put into law now for the short run, at least, the solid, clear examples we know of the kind of relief, injunctive relief, that is presently in the law, and make sure as we go through this complex law, as it becomes effectuated, that we are not making a mistake by broadening it too soon.

I urge adoption of the Sensenbrenner amendment. It is a commonsense approach. I believe it ought to be adopted, and that we ought to pass the bill.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I oppose this amendment. It makes no sense to provide to disabled individuals remedies that are different from the remedies available to women, racial groups, and religious groups. People with disabilities have been second-class citizens for far too long. The fundamental purpose of the Americans With Disabilities Act is to correct that situation, but this amendment would perpetuate that second-class status.

Referencing the Civil Rights Act of 1964, which I supported and helped draft, as the ADA does now, assures that the remedies provided to the disabled will continue to parallel the remedies provided to these other groups. This is a fair concept and a good one.

A no vote on this amendment will be a vote for first-class citizenship for the disabled. I urge the Members to defeat the amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Cox].

Mr. COX. Mr. Chairman, 13 years ago a Jeep that I was driving through a muddy rain forest in Hawaii flipped, pinning me underneath. My spine was shattered, and for several weeks I lay in a hospital paralyzed from the waist down. Life seems very different from the perspective of one who cannot walk or even use a restroom normally. I was lucky enough to recover fully.

That brief taste of a lifetime handicap showed me how courageous are the people who must live with these disabilities every day, and that is why I am so delighted that President Bush has been pushing so hard for passage of the Americans With Disabilities Act.

President Bush was led to understand that this bill did not include punitive damages, and that was the understanding of most of us here. That is important, because in many respects this legislation is vague. The definition of who is disabled is in large measure left to the courts. The definition of what is a reasonable accommodation is in large measure left to the courts.

In that context, punitive damages just do not make sense. The Sensenbrenner amendment will give the disabled the same remedies currently available to women and minorities under title VII. The Sensenbrenner amendment will assure that with this bill we empower the disabled, not the lawyers.

Mr. Chairman, I urge a "yes" vote on the Sensenbrenner amendment.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, I rise in opposition to the amendment and in support of this magnificent piece of legislation, which is probably the most beneficial legislation we will pass in this session of Congress.

I want to emphasize the fact that, as the subcommittee chairman responsible for launching this legislation, we held many hearings, and we worked with a volunteer group of people from the community of people with disabilities. it was their great wish that we couple this bill and bind it tightly with the rest of the civil rights legislation. They wanted to make it quite clear that this is a completion of the civil rights agenda for America.

Justin Dart, who chaired the volunteer task force, held meetings all over the country in every State. People came out, and they wanted to emphasize the fact that this is a rights bill; it is a civil rights bill. It is not another set of one of those thousand points of light. This is not charity. This is a clarification and reaffirmation and establishment of certain basic civil rights.

At their requests, the first hearing we held here in Washington we invited Jesse Jackson as the leadoff witness. It was their request that everything possible be done to make it clear to everybody that this is the completion of the agenda for civil rights in America.

I hope we clearly understand that and vote no on this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, those who are opposed to my amendment seem to think that protections and rights are synonymous with remedies and lawsuits. I strongly disagree with that.

If anyone wants remedies in lawsuits, vote no on the Sensenbrenner amendment. If they want protections and rights, vote aye on the Sensenbrenner amendment.

Let us have the money that business spends on the ADA used to make places of employment and places of business more accessible to the disabled rather than using that money in the courtroom to pay lawyers' fees and litigation fees.

Support the Sensenbrenner amendment. Give the disabled something that they truly deserve, protections and rights.

Mr. Chairman, I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Chairman, I yield the balance of my time to the gentleman from Maryland [Mr. HOYER].

□ 1350

Mr. HOYER. Mr. Chairman, I wish to thank the distinguished chairman of the subcommittee and also want to thank the chairman of the Committee on the Judiciary.

Mr. Chairman, we are about to take a historical action on the floor of this House. It is akin to the action we took in 1964, when we said to all Americans that you are not to be discriminated against, irrespective of your race, your color, your national origin, your sex, or other arbitrary distinctions.

We did not, however, in 1964, say that the disabled would be in that same category. So for 26 years, from that date, we have continued to allow both conscious and unconscious, unthinking, discrimination.

In a very bipartisan way with the leadership of the President and the leadership of the chairmen of the House and Senate committees, both sides of the aisles, we are going to say to the disabled, 43 million strong in America, that we no longer are going to allow that process to occur.

In the course of the consideration of that legislation, in the course of the discussions between the White House and the Senate, there was an agreement. There was an understanding. There was a commonsense resolution to a thorny issue.

In the original presentation of the bill punitive damages and compensatory damages had been included. Some said no, that is not fair. We ought to have parallel rights. All persons discriminated against ought to have the same remedies. As a matter of fact, Attorney General Thornburgh said ex-

actly that. He said, "The ADA wisely parallels in the disability area Title VII of the Civil Rights Act of 1964."

What did that mean? It meant, ladies and gentlemen, that we hold these truths to be self-evident, that all men are created equal and are endowed by their creator with certain unalienable rights, and among these are life, liberty, and the pursuit of happiness. Because they are all created equal, in the eyes of our law we will treat them equal.

This is the wrong amendment at the wrong time on the wrong bill. The gentleman from Pennsylvania got up and chastised us for talking about a bill that is to come. All of the debate in favor of the Sensenbrenner amendment I suggest has been on a bill that is yet to come to this floor.

Let us not say by adopting the Sensenbrenner amendment that the disability community remains in a second-class status in America. That is not what this bill is about. This bill is about all men and women being created equal, endowed not by the State, not by Congress, as some of our Communist friends tried to sell the world and are now failing in doing so, but by their creator, with certain unalienable rights. If those rights are transgressed, then their remedies ought to parallel the remedies of a black citizen or a female citizen or an ethnic minority citizen or any other citizen in America who was not treated consistently with the principles that has made this Nation the object of envy throughout the world, because we have pledged and our law stands ensconced in the world as standing for the proposition that every individual will be granted equal rights and equal remedies.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 227, not voting 13, as follows:

[Roll No. 121]

AYES—192

Andrews	Brown (CO)	Dannemeyer
Anthony	Bunning	Davis
Applegate	Burton	DeLay
Archer	Callahan	Derrick
Armey	Campbell (CA)	DeWine
Baker	Chandler	Dickinson
Ballenger	Chapman	Dornan (CA)
Barnard	Clarke	Douglas
Bartlett	Clinger	Dreier
Bateman	Coble	Duncan
Bentley	Coleman (MO)	Edwards (OK)
Bereuter	Combest	Emerson
Bilirakis	Cooper	English
Bliley	Coughlin	Fawell
Boehlert	Cox	Fields
Broomfield	Crane	Gallegly
Gallo	Madigan	Schaefer
Gekas	Marlenee	Schiff
Geren	Martin (IL)	Schuette
Gillmor	Martin (NY)	Schulze
Gingrich	McCandless	Sensenbrenner
Goodling	McCollum	Shaw
Goss	McCrery	Shumway
Gradison	McEwen	Shuster
Grandy	McMillan (NC)	Sisisky
Grant	Meyers	Skeen
Hancock	Michel	Skelton
Hansen	Miller (OH)	Slaughter (VA)
Hastert	Miller (WA)	Smith (IA)
Hayes (LA)	Molinari	Smith (NE)
Hefley	Montgomery	Smith (NJ)
Hefner	Moorhead	Smith (TX)
Henry	Morrison (WA)	Smith, Denny (OR)
Herger	Murphy	Smith, Robert (NH)
Hiler	Myers	Smith, Robert (OR)
Holloway	Nielson	Solomon
Hopkins	Olin	Spence
Hubbard	Ortiz	Stallings
Huckaby	Oxley	Stangeland
Hunter	Packard	Stearns
Hutto	Parker	Stenholm
Hyde	Parris	Stump
Inhofe	Paxon	Sundquist
Ireland	Payne (VA)	Tanner
James	Petri	Tauke
Jenkins	Pickett	Tauzin
Johnson (CT)	Porter	Thomas (GA)
Johnston	Price	Thomas (WY)
Kasich	Pursell	Upton
Kolbe	Quillen	Valentine
Kyl	Ray	Vander Jagt
LaFalce	Regula	Volkmer
Lagomarsino	Rhodes	Vucanovich
Lancaster	Ridge	Walker
Laughlin	Ritter	Weber
Leath (TX)	Roberts	Weldon
Lent	Robinson	Whittaker
Lewis (CA)	Rogers	Wolf
Lewis (FL)	Rohrabacher	Wylie
Lightfoot	Rose	Yatron
Lipinski	Roth	Young (AK)
Livingston	Roukema	Young (FL)
Long	Rowland (GA)	
Lowery (CA)	Sarpalius	
Machtley	Saxton	

NOES—227

Ackerman	de la Garza	Hatcher
Anderson	DeFazio	Hawkins
Annunzio	Dellums	Hayes (IL)
Aspin	Dicks	Hertel
Atkins	Dingell	Hoagland
AuCoin	Dixon	Hochbrueckner
Barton	Donnelly	Horton
Bates	Dorgan (ND)	Houghton
Beilenson	Downey	Hoyer
Bennett	Durbin	Hughes
Berman	Dwyer	Jacobs
Bevill	Dymally	Johnson (SD)
Bilbray	Dyson	Jones (GA)
Boggs	Early	Jones (NC)
Bonior	Eckart	Jontz
Borski	Edwards (CA)	Kanjorski
Bosco	Engel	Kaptur
Boucher	Erdreich	Kastenmeier
Boxer	Espy	Kennedy
Brennan	Evans	Kennelly
Brooks	Fascell	Kildee
Browder	Fazio	Kleczka
Brown (CA)	Feighan	Kolter
Bruce	Fish	Kostmayer
Bryant	Flake	Lantos
Buechner	Foglietta	Leach (IA)
Bustamante	Ford (MI)	Lehman (CA)
Byron	Frost	Lehman (FL)
Campbell (CO)	Gaydos	Levin (MI)
Cardin	Gejdenson	Levine (CA)
Carper	Gephardt	Lewis (GA)
Carr	Gibbons	Lloyd
Clay	Gilman	Lowey (NY)
Clement	Glickman	Luken, Thomas
Coleman (TX)	Gonzalez	Manton
Collins	Gordon	Markey
Condit	Gray	Martinez
Conte	Green	Matsui
Conyers	Guarini	Mavroules
Costello	Gunderson	Mazzoli
Courter	Hall (OH)	McCloskey
Coyne	Hall (TX)	McCurdy
Crockett	Hamilton	McDade
Darden	Harris	McDermott
McGrath	Pickle	Spratt
McHugh	Poshard	Staggers
McMillen (MD)	Rahall	Stark
McNulty	Rangel	Stokes
Mfume	Ravenel	Studds
Miller (CA)	Richardson	Swift
Mineta	Rinaldo	Synar
Moakley	Roe	Tallon
Mollohan	Rostenkowski	Taylor
Moody	Rowland (CT)	Torres
Morella	Roybal	Torricelli
Morrison (CT)	Russo	Towns
Mrazek	Sabo	Traficant
Murtha	Saiki	Traxler
Nagle	Sangmeister	Udall
Natcher	Savage	Unsoeld
Neal (MA)	Sawyer	Vento
Neal (NC)	Scheuer	Visclosky
Nowak	Schneider	Walgren
Oakar	Schroeder	Walsh
Obey	Schumer	Washington
Owens (NY)	Serrano	Waxman
Owens (UT)	Sharp	Weiss
Pallone	Shays	Wheat
Panetta	Sikorski	Whitten
Pashayan	Skaggs	Williams
Patterson	Slattery	Wilson
Payne (NJ)	Slaughter (NY)	Wise
Pease	Smith (FL)	Wolpe
Pelosi	Smith (VT)	Wyden
Penny	Snowe	Yates
Perkins	Solarz	

NOT VOTING—13

Alexander	Frenzel	Ros-Lehtinen
Craig	Hammerschmidt	Thomas (CA)
Flippo	Lukens, Donald	Watkins
Ford (TN)	Nelson	
Frank	Oberstar	

□ 1412

The Clerk announced the following pairs:

On this vote:

Mr. Craig for, with Mr. Nelson of Florida against.

Mr. Thomas of California for, with Mr. Oberstar against.

Mr. ACKERMAN changed his vote from "aye" to "no."

Messrs. VOLMER, QUILLEN, DAVIS, and SPENCE changed their votes from "no" to "aye."

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

Mr. STAGGERS. Mr. Chairman, during the Judiciary Committee's markup of the Americans With Disabilities Act, I entered into a colloquy with the distinguished chairman of the Subcommittee on Civil and Constitutional Rights, Mr. EDWARDS, regarding my concern pertaining to the impact of the ADA on the temporary worksite. This concern stemmed from conversations I've had with constituents in the construction industry. They pointed out that making certain types of accommodations on a temporary worksite, such as a construction jobsite, would be very difficult due to the frequently changing circumstances, structure, and terrain of such worksites.

I am pleased to say the Judiciary Committee report language, as well as the Education and Labor Committee report language, discuss the special circumstances of the temporary worksite. Both reports clarify the intent of the ADA, with regard to consideration of the type of operation maintained by the entity, in determining whether or not an accommodation would pose an undue hardship. Specifically, the Judiciary Committee report states an employer on a construction jobsite, for exam-

ple, would not be required to made accommodations which would fundamentally alter the nature of the site, or be unduly costly to implement or maintain. Furthermore, the committee recognizes that certain types of accommodations which may be easily made in a more traditional work setting, such as an office building, would impose an undue hardship on the nontraditional, temporary worksite.

The contractors I mentioned came to me because they are not sure what will be expected of them under the employment title (I) of the ADA. They raised the point that a construction jobsite is an ever-changing place of employment. As a project enters different phases of completion, points of accessibility change. An accommodation made today won't necessarily provide access tomorrow. In addition, many of the employees are temporary, in that they work for a particular employer only for the duration of that project. Employers on temporary worksites want assurances that this legislation will take into consideration the realities of their unique industry. I believe the committee report language addresses this situation, and I thank Mr. EDWARDS for his assistance on this important matter.

Certainly, this legislation will benefit the entire Nation by prohibiting discrimination against the estimated 43 million persons in this country with disabilities, and I strongly support that intent. However, Mr. Chairman, I think it is important to raise the issues during this debate which have concerned those who will have to comply with the act, particularly small businesses, and point out the steps the committee of jurisdiction have taken to clarify their obligation.

Mr. FISH. Mr. Chairman, as we consider the Americans with Disabilities Act [ADA] today, I would like to offer some comments on six amendments which I introduced and which were accepted by the Judiciary Committee during its consideration of the bill. These provisions have been incorporated into the bill before us. I would like to briefly describe the purpose of each of these amendments, as I believe that will be useful for Members of this body.

Section 101(8): Qualified individual with a disability ("Essential function of the job"):

The ADA, like section 504 of the Rehabilitation Act, defines "qualified individual with a disability" as an individual with a disability who, with or without reasonable accommodation can perform the essential functions of the job. The term "essential functions" is included in order to ensure that persons with disabilities are not disqualified because they cannot perform duties which are only marginal to the job. Employees often include tasks in job descriptions which are incidental to the actual job or are performed infrequently or not at all. A common example of this is the requirement that applicants possess drivers' licenses for non-driving jobs. Such a driving requirement serves to disqualify persons with disabilities which preclude driving. Employers often include this requirement because of the convenience of having an employee who drives do an occasional errand or because the employer believes that an employee who drives will not be late to work or will be able to work more overtime. These would not be valid reasons to exclude a person whose disability prevented him from driving, if the person was able to do the tasks of the actual job.

In addition, the essential function requirement focuses on the desired result rather than the means of accomplishing it. For example, in one case under the Rehabilitation Act, the employer required each employee to be able to perform the job with both arms. *Prewitt* v. *U.S. Postal Service,* 662 F.2d 292 (5th Cir. 1981). The plaintiff was unable to do this because his disability resulted in limited mobility in his left arm. The court found that the essential function of the job was the ability to lift and carry mail which the employee had proven that he could do, not the ability to use both arms. Moreover, the court found that the employer was required to adapt the work environment to determine whether the employee with the disability could perform the essential requirements of the job with reasonable adaptations.

Likewise, in a job requiring the use of a computer, the essential function is the ability to access, input, and retrieve information from the computer. It is not essential that the person be able to use the keyboard or visually read the computer screen, if the provision of adaptive equipment or software would enable the person with the disability—for example, impaired vision or limited hand control—to control the computer and access the information. The relevant question would be whether the acquisition of the equipment would be a reasonable accommodation, given the factors to be considered in making that determination.

The committee adopted addition language which states that consideration shall be given to the employer's judgment as to what functions of the job are essential. This amendment was added because of concerns that the essential function provision would be read to mean that the employee alone could define the essential functions and that the employer's judgment would be disregarded. The amendment simply clarifies that the employer's judgment should be considered, along with all other evidence. An amendment which would have created a presumption in favor of the employer's judgment was rejected. Hence, the amendment is neutral as to the weight that should be given to the employer's judgment about which functions are essential. Similarly, an amendment was approved on the floor which states that job descriptions developed by the employer shall be considered evidence of the essential functions of the job. Again, this amendment is neutral as to the weight to be given this evidence. Writing down a job function does not elevate its weight. The weight given to a written job description will depend on how closely it is tailored to the actual functions of the job. Moreover, a plaintiff may use the job description as evidence of discrimination. Hence, both amendments to the essential functions provision should be read to conform to existing law which considers evidence from both the plaintiff and defendant on the issue of essential functions.

Section 103(b)(3): Direct threat to others:

The committee adopted amendments to the employment and public accommodations sections of the bill to ensure that entities which excluded persons with disabilities from their programs on the basis of risk of harm to others did so based on the standard of a direct threat that could be proved to be a significant risk to the health or safety of others that cannot be eliminated with reasonable accommodation.

While the committee does not foresee that the employment or participation of an individual with disabilities would generally pose any risk, much less a significant risk, to the health or safety of others by the status of having a disability, the committee added this provision to allay the fears of those who believe that the nondiscrimination provisions of the bill could force employers and providers of benefits or services to employ or to interact with those individuals who pose such a risk.

In adopting this standard, the committee drew on case law developed under section 504 of the Rehabilitation Act of 1973, as amended. Under this case law, a person would not be considered qualified if he or she posed a direct threat to the health or safety of others. The formulation of this standard parallels the provision added to the Civil Rights Restoration Act of 1988 (Public Law 100–259, 102 Stat. 28) and the provision added to the Fair Housing Amendments Act of 1988 (Public Law 100–403, 102 Stat. 1619). Congress added both provisions in order to codify the Supreme Court decision in *School Board of Nassau County* v. *Arline,* 107 S.Ct. 1131, n.16.

Any claim that an individual poses a direct threat and a significant risk of harm to others must be established on the basis of objective evidence. Generalized assumptions, subjective fears and speculation are insufficient to prove the requisite direct threat to others.

If the employer determines, by objective evidence that is sufficiently recent as to be credible, and not from unsubstantiated inferences, that the applicant will pose a direct threat that is a significant risk to the health or safety of others, and that the threat cannot be eliminated by the provision of a reasonable accommodation, the employer may reject the applicant as an employee. Providers of public accommodations are intended to be held to the same standards as employers, with regard to denying services or benefits to persons with disabilities.

The applicant or participant is not required to prove that he or she poses no risk. Further, the determination of significant risk for persons with disabilities must be based on the current condition of the applicant, participant or employee. The decision to exclude cannot be based on merely an elevated risk of injury. See, *Mantolete* v. *Bolger,* 736 F.2d 1416 (9th Cir. 1985). This amendment adopted by the committee is intended to set a clear, defined standard which requires actual proof of significant risk to others.

Section 308(a)(1): The futile gesture doctrine:

Another amendment offered and accepted in the Judiciary Committee clarified the language in the title III enforcement provision which states that a person may file a civil action if he or she has reasonable grounds to believe that he or she was about to be subjected to discrimination. Concerns were raised as to the meaning of this provision in cases other than new construction or alterations of buildings. The explicit language describing the futile gesture doctrine was inserted to clarify

the circumstances when the "about to be" language would be applicable. This has been a well-established doctrine in title VII case law and is implied in title I.

Section 302(a): Prohibition of discrimination by public accommodations: General rule:

The committee adopted an amendment which clarifies that the prohibition against discrimination "in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations," applies to "any person who owns, leases (or leases to), or operates a place of public accommodation."

This amendment was added in order to make it clear that the prohibition against discrimination applies to the owner of the building that houses the public accommodation, as well as the owner or operator of the public accommodation itself. For example, an owner of a building that contains retail stores would be required to make readily achievable changes to accomplish access in common areas under the building owner's control. Without this provision, the purpose of title III could be undermined. A person with a disability could be prevented from entering the public accommodation because of an inaccessible entrance—which could be made accessible easily, without much difficulty or expense—i.e. in a readily achievable manner. Likewise, the owner would be required to modify policies which exclude people with disabilities, such as a no pets rule, in order to allow entrance to a person who uses a guide, signal or service dog. Any actions of the building owner which affect the ability of a person with a disability to use the public accommodation would be covered, to the extent provided in the non-discrimination provision of section 302.

The amendment also makes it clear that the owner and operator of the public accommodation are prohibited from discriminating in accordance with this title. Corporate headquarters would be covered to the same extent as the operator of the accommodation. For example, corporate headquarters could not continue to design new stores in an inaccessible manner in violation of section 303.

Finally, organizations which lease public accommodations for events which are open to the public are prohibited from leasing those public accommodations which discriminate against people with disabilities as defined by this title. This provision addresses concerns that were raised about the inability of people with disabilities to attend public events because of lack of access or discriminatory policies. This provision does not require organizations to lease only accessible facilities. It does, however, require organizations to lease facilities which are in compliance with this title. For example, an organization could not lease a conference center for a public event which refused to admit blind people who use guide dogs or refused to serve people who used wheelchairs.

Section 303: New construction and alterations in public accommodations and commercial facilities:

The Committee also approved an amendment which extended the obligation to carry out building alterations so that they result in accessibility in commercial facilities, as well as in public accommodations. This amendment was intended to correct an oversight in previous bills where the alterations section only applied to public accommodations. The intent of the ADA is to assure that construction performed in the future results in accessibility and useability by people with disabilities. In order to accommodate the concerns of businesses, a line was drawn between existing buildings where only those accessibility changes which are readily achievable are required, and new construction which must be accessible. In keeping with this purpose, it made sense to require that alterations which affect usability also be accessible in all commercial facilities. The bill does not require that existing buildings be altered for accessibility purposes. It simply requires that if and when alterations are performed that they incorporate accessibility requirements. Without this amendment, the anomalous situation could arise that a new commercial facility which was required to be accessible under the ADA could be altered to make it inaccessible.

Section 309: Examinations and courses:

The committee adopted an amendment which creates an obligation on all entities which provide tests and courses related to applications, licensing, certification or credentialing for secondary or post-secondary education, professional, or trade purposes to offer the examinations or courses in a place and manner that is accessible. This amendment was critical to the purposes of the ADA, to create equal opportunity for persons with disabilities. This purpose would be undermined if people with disabilities would be foreclosed from the same opportunities to prepare and qualify for educational and professional positions. For example, a law school graduate who used a wheelchair would be at a disadvantage if his classmates could take a bar preparation course that was held in an inaccessible site. Likewise, a person who is blind may be unable to compete in the S.A.T. exam without the assistance of a reader. The courses and examinations covered in this section were considered so critical to the intent of the ADA that the committee wanted to ensure the participation of people with disabilities.

CONCLUSION

In conclusion, the amendments that I offered and that were accepted by the Judiciary Committee are consistent with the purpose of the ADA—to open equal opportunities to people with disabilities. I look forward to the passage of the most historic piece of disability civil rights legislation of our times and feel honored to have had a part in drafting it.

Mr. HAYES of Illinois. Mr. Chairman, I rise in strong support of the Americans with Disabilities Act before us today. Ever since this great country was formed over 200 years ago Americans have had one common goal in life—democracy. After all this time it is a sad commentary that with all of our know how and all the advancements that we have made throughout our history, that we have not been able to achieve that goal for a vast number of citizens.

We have legislated against roadblocks for equal education, equal employment, equal opportunity and equal rights. Still, discrimination persists to eat away at the fabric of our society. One day we will overcome the hatred and bigotry that is harbored by a declining few in this country. Until that time, it is important that we go through the exercise we are involved in today. When enacted, the ADA bill before us will bring much of what society has to offer to those who can least afford to be denied full membership—I am talking about those with mental and physical disabilities.

Given the fact that there are over 43 million Americans suffering from some form of disability, this legislation will have a wide and far reaching impact on the lives of countless citizens. There simply is no excuse why these citizens should not have the full protection accorded everyone else in society.

While I am not so naive as to think this legislation alone will end the discrimination these individuals face each and every day, just as the Civil Rights Act of 1964 and the Rehabilitation Act of 1973 have changed our society for the better, the ADA will also have a profound positive impact on the quality of life of millions of Americans.

I urge my colleagues on both sides of the aisle to vote in support of this bill.

Mr. MORRISON of Connecticut. Mr. Chairman, this is a historic day. Twenty-six years after the enactment of the Civil Rights Act of 1964, which barred discrimination based on race, religion, national origin and gender, we are about to pass legislation that will bar discrimination against one of the Nation's largest minority groups—Americans with disabilities.

This bill extends to Americans with disabilities the civil rights that are guaranteed to all Americans. I am delighted that we are moving forward to empower Americans with disabilities, not only so that they may have access to the opportunities so many of us take for granted, but also so that we all may have access to their talents and productivity.

Mr. Chairman, one of the key accomplishments of this bill is the prohibition of discrimination on the basis of public accommodation. With the passage of this bill no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodation of any place of public accommodation.

The mandate provided in the ADA for architectural accessibility will be extremely important, particularly in States which have no access requirements today. In these places, disabled people and their advocacy organizations have long been frustrated by unsuccessful attempts to achieve access to public accommodations through voluntary efforts by the operators of those accommodations.

One refrain disabled people have heard over and over again is, "Why should we make our building accessible when we have no disabled customers?" This reflects an erroneous assumption. Disabled people tend to not even try to use a public accommodation that is inaccessible; therefore, the manager doesn't know what the demand for services would be among people with disabilities if the facility was accessible.

As society becomes more accessible, and disabled people become more fully integrated, most public accommodations will tend to have disabled customers.

Sometimes, managers of public accommodations don't contemplate the use by disabled

persons because of the unique physical nature of the public accommodation or the physical requirements for participation. But again, this is based on erroneous assumptions.

For example, at one time, it was unheard of for individuals using wheelchairs to play tennis, and tennis court designers and managers never contemplated disabled players wanting courts. However, wheelchair tennis is now an accepted athletic event, and it can be assumed that tennis courts should be wheelchair accessible.

In general, when participation by disabled persons isn't contemplated at a place or activity, erroneous assumptions about the skills and inclinations of disabled persons are being made. This is why the ADA requires access to all public accommodations.

One of the ADA's public accommodations requirements is that, when buildings are altered, the altered area must be made accessible to people with disabilities. Alterations include remodeling projects of all kinds. Additions to buildings should be considered alterations.

A related requirement is that an accessible path of travel must be provided to the altered area, if providing one would not be disproportionate in cost and scope to the overall alteration. An accessible path of travel should include whatever elements are necessary so that a disabled person can enter the facility, whether the person arrives by driving a car into the building's parking lot, or whether the person comes up the public sidewalk.

Also, facilities serving the altered area, like accessible restrooms, telephones, and drinking fountains, should be provided if they are not disproportionate in cost and scope to the overall alteration.

The "disproportionate" language in the bill is provided to offer operators of public accommodations relief in the situations where providing an accessible path of travel to an altered area would be so overwhelmingly expensive, in comparison to the originally intended scope of the alteration, that it would make the alteration financially infeasible. In this way, the bill offers a well-crafted requirement for accessibility, and balances it with the necessary financial protections for the operators of commercial establishments covered by the ADA.

For the Americans With Disabilities Act to provide a successful mandate for eliminating disability discrimination, it will be critical for it to be regulated and implemented very carefully. Implementation must take into account the actual problems that face disabled people on a daily basis in our society.

Two good examples include hotels and grocery stores, which present special challenges for implementation.

Disabled people are frequently frustrated by the inaccessibility of hotel rooms. Very few rooms, even in new hotels, are made fully accessible. The rest of the rooms often feature restroom doors too narrow to enter. Often, it has been impossible for disabled persons who need to fly to a city on short notice to do business, to find a usable hotel room. For the same reason, organizations of disabled persons are often stymied when trying to find a hotel for a conference, because virtually all hotels feature too few rooms to accommodate the organizations' disabled members.

For this reason, the ADA requires new hotels to meet a number of requirements. Common-use areas like lobbies and restaurants must be accessible, a few rooms must be fully accessible—including grab bars and wheelchair turning space in the restroom—and audio loops for the use of hearing-impaired persons must be available in meeting rooms. In addition, doors to all guestrooms, and doors to the restrooms in all guestrooms, must be of a standard wheelchair-accessible width.

This is a reasonable way to solve the problem. While it might not be reasonable to propose that every guestroom in a new hotel be fully accessible—including restroom grab bars and turning space—it is reasonable to require a percentage of fully accessible rooms and simply the appropriate door widths in the other rooms. Then, many wheelchair-users and other people with physical disabilities will be able to use those guestrooms which are not fully accessible. It will be much easier for disabled persons to book usable rooms when they don't have a lot of time in advance, and also it will greatly relieve the difficulties of organizations of disabled persons finding hotels to accommodate large groups.

Grocery stores present similar frustrations and sometimes complete discrimination. One practice which renders many grocery stores completely inaccessible is the placing of pole barriers around the entrance to the store in order to prohibit the removal of grocery carts. This practice is also found in other kinds of stores where carts are used. This will be illegal under the ADA; there must be at least one entry/exitway with a standard wheelchair-accessible width.

Also, in new grocery stores, supermarkets, convenience stores, and other stores with checkout stands, checkout stands should permit passage by wheelchairs through the customer pathway. This is not a new idea; but rather is the existing policy in Connecticut, California, and several other States.

It is not sufficient to provide only one accessible checkout stand per store. This practice has been shown ineffective in many existing locations, for two reasons. First, at various times of the day, some checkout stands are not in use. Often, this includes the accessible stand. Many times, disabled persons go to leave the store, only to discover that the only accessible checkout stand has a chain across it, with a sign saying "Please use another checkout stand."

Second, different checkout stands can have different functions. For example, some are express lines—"10 items or less" or similar rules—while others are not. Requiring all checkout stands to be accessible is not burdensome and achieves the necessary degree of accessibility.

Under the Americans With Disabilities Act, when facilities are altered, the altered area must be made accessible, and a path of travel and restrooms serving the altered area must also be made accessible, if not disproportionate in cost and scope to the overall alteration.

It is also important to note that, if the aggregate cost of an accessible path of travel, restrooms, telephones, and drinking fountains would be disproportionate to the overall alteration cost, the operator of the public accommodation is not relieved of the obligation to provide a subset of such features up to the point which would become disproportionate. The goal is to provide the maximum amount of accessibility that doesn't exceed the disproportionality limit.

If a selection must be made between accessibility features, those which provide the greatest use of the facility should be selected. For example, an accessible entrance would generally be the most important path of travel feature, since without it, the facility would be totally unusable by many persons with disabilities. An accessible restroom would have greater priority than an accessible drinking fountain.

One very important requirement of public accommodations under the ADA is the requirement to make reasonable accommodations in policies, practices, and procedures to afford services to disabled individuals, and to provide services through alternative methods if the removal of architectural and communication barriers in existing facilities is not readily achievable. This is a mandate for common sense. Logical changes which would enhance participation by people with disabilities are required, which sometimes will demand some ingenuity, but will rarely if ever be burdensome on the business operator.

For example, if a pizza parlor is on the second floor of a building with no elevator, an employee must be willing to bring a disabled persons' phoned-in order to them at the bottom of the steps. In a store, a salesperson must be made available for a reasonable length of time to assist a blind person in reading labels of items for sale.

In a movie theater, if some screens are upstairs and some are downstairs, movies should be rotated periodically so disabled patrons can see all the available films, even if they can't climb the stairs. And these rotations must be advertised so that the public knows what they can see when. In an elevator, if the buttons are too high and it would not be readily achievable to lower them, a wand or other device should be provided with which disabled persons can operate the elevator controls.

In an existing two-story restaurant which has no public elevator, but does have a freight elevator, if disabled persons who can't climb stairs wish to go to the second floor and wish to use the freight elevator, it must be made available to them, even if normal policy prohibits the public from such use.

Mr. McDERMOTT. Mr. Chairman, I rise in support of the Americans With Disabilities Act. This legislation represents the first comprehensive piece of civil rights legislation for people with disabilities—extending necessary protections that have long been denied to such individuals.

I am particularly pleased that this act will finally also extend necessary protection to people with HIV disease. These are individuals who have any condition along the full spectrum of HIV infection—asymptomatic HIV infection, symptomatic HIV infection or full-blown AIDS. These individuals are covered under the first prong of the definition of disability in the ADA, as individuals who have a

physical impairment that substantially limits a major life activity. As a physician, I know that although the major life activity that is affected at any point along the spectrum by the HIV infection may be different, an effect on some major life activity exists from the time of HIV infection.

As a physician, I also know all too well that we need to be in a fight against a disease, not in a fight against people with a disease. But, unfortunately, while much of America has responded with compassion and dignity to individuals with HIV disease, many others have not. For those individuals who still experience discrimination on the part of those who react out of ignorance and fear, the ADA will finally extend critical protection in the areas of employment, transportation and public accommodations.

In employment, the protections that exist in all aspects of employment decisionmaking, and with regard to the provision of reasonable accommodations, will be critical for people with HIV disease. The requirements regarding medical examinations are thoughtful, comprehensive, and will provide necessary protection. Finally, the protections regarding fringe benefits will be important for people with HIV disease. And, in public accommodations, the protections of the act will ensure that people with HIV disease receive necessary goods and services.

I am pleased that Congress is finally taking this historic step to extend protection to all people with disabilities—including people with HIV disease. I urge my colleagues to join me in voting for this important piece of legislation.

Mr. FAZIO. Mr. Speaker, I strongly support H.R. 2273, the Americans With Disabilities Act. It is long-overdue legislation, which will prohibit discrimination against Americans with disabilities in employment, public accommodations, transportation, and telecommunications.

The Civil Rights Act of 1964 barred discrimination on the basis of race, sex, color, religion, and national origin. Unfortunately, it does not address the very real problem of discrimination on the basis of disability. Every day, millions of disabled Americans face discrimination based solely on their disability, and have no recourse or remedy against those who are discriminating against them.

H.R. 2273 is a fair bill which was carefully drafted to take into consideration concerns from both sides. While it includes provisions to ensure that individuals with disabilities receive the rights and protections they deserve, it also makes certain that businesses will not be required to make unreasonable and excessive changes.

The time for passage of this legislation is long overdue. The 43 million Americans who are physically or mentally disabled have been treated as second class citizens for too long. This measure provides us with the opportunity to guarantee to those individuals with disabilities, the same broad-based protection against discrimination that all Americans enjoy. I urge my colleagues to support this legislation.

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 4807, the "Americans With Disabilities Act of 1990."

Mr. Chairman, the committee of the whole adopted an amendment to section 507 of the bill that addresses the question of the right of disabled persons to enter wilderness areas by the use of wheelchairs.

Because there may be unresolved questions, I believe that it would be useful to clarify the current state of agency policies regarding this subject.

Central features of wilderness areas are their roadless character and the opportunities they afford for recreation that does not involve use of motorized devices such as motorcycles or all-terrain vehicles. Apparently, this has led some to believe that wheelchairs, too, are precluded even when their use is a medical necessity.

In the past, slight differences in regulations of the agencies managing wilderness areas may have added to the impression of some that such use was not permitted. The National Park Service and the Forest Service today have policy statements that specifically authorize the use of wheelchairs by mobility-impaired persons in wilderness areas. The National Park Service policy is spelled out in chapter 6, section 8 of the NPS Management Policies, while the Forest Service's 1986 Manual included an exemption of "wheelchairs when used as necessary medical appliances" from the general restrictions on motorized transport in wilderness areas, but in the past the regulations of the Bureau of Land Management [BLM] have been silent on wheelchair access to wilderness.

However, according to BLM Director Jamison, last year the BLM adopted an explicit policy confirming that wheelchair use in wilderness is permitted and BLM is revising its existing management regulations for wilderness areas to include language specifying that the use of wheelchairs by persons with mobility impairments is not considered as being use of mechanical transport or motorized equipment within the intent of those regulations.

Any lingering doubts about how the agencies view this matter should soon be removed, especially since the Forest Service has drafted new language for its manual that will even more clearly reflect the permissibility of wheelchair use.

Thus, Mr. Speaker, as a matter of record it has been clear for some time that there is no need to amend the Wilderness Act to accommodate wheelchair access. The agencies have correctly concluded that the Act does not prohibit use of wheelchairs in wilderness areas when such use is necessary because of a person's medical condition or disability.

For the further information of Members, I am here including a May 17, 1990, memorandum by the Congressional Research Service concerning the Forest Service's new manual language, a copy of a letter from BLM Director Cy Jamison to Representative RHODES, a member of the Committee on Interior and Insular Affairs, concerning that agency's revisions of its regulations, and a copy of the relevant portion of the National Park Service Management Policies.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, May 17, 1990.

To: House Committee on Interior and Insular Affairs, Subcommittee on National Parks and Public Lands, Attention: Stan Sloss.

From: Betsy A. Cody, Analyst in Natural Resource Policy, Environment and Natural Resources Policy Division.

Subject: Wheelchair Access in Wilderness Areas.

Attached is a copy of the U.S. Forest Service's definition of "mechanical transport" as it appears in the agency's 1986 manual describing management policies. As you will note, the Forest Service definition "does not include wheelchairs when used as necessary medical appliances" (Title 2320.5).

Additionally, the Forest Service has drafted new language for its manual:

* * * mechanical apparatus that is medically necessary for basic mobility of any individual is considered to be part of that person and not subject to restrictions on mechanical transport.[1]

The above represents the Forest Service's current policy on wheelchair access in wilderness areas. As far as I know, this language has not been published in the Code of Federal Regulations.

TITLE 2300—RECREATION, WILDERNESS, AND RELATED RESOURCE MANAGEMENT

10. Inform wilderness visitors that they face inherent risks of adverse weather conditions, isolation, physical hazards, and lack of rapid communications, that search and rescue may not be as rapid as expected in an urban setting in all publications and personal contacts.

11. Manage primitive areas as wilderness areas consistent with 36 CFR 293.17 until their designation as wilderness or to other use is determined by Congress.

2320.5—Definitions

1. *Wilderness.* An area of wilderness is defined in Sec. 2(c) of the Wilderness Act (16 U.S.C. 1131-1136). The term "wilderness" shall be applied to all National Forest System lands included in the National Wilderness Preservation System (NWPS). See 36 CFR 261 and 293.

2. *Untrammeled.* In the context of the Wilderness Act, an untrammeled area is where human influence does not impede the free play of natural forces or interfere with natural processes in the ecosystem.

3. *Mechanical Transport.* Any contrivance for moving people or material in or over land, water, or air, having moving parts, that provides a mechanical advantage to the user, and that is powered by a living or nonliving power source. This includes, but is not limited to, sailboats, hang gliders, parachutes, bicycles, game carriers, carts, and wagons. It does not include wheelchairs when used as necessary medical appliances. It also does not include skis, snowshoes, rafts, canoes, sleds, travois, or similar primitive devices without moving parts.

4. *Motorized Equipment.* Machines that use a motor, engine, or other nonliving power soruces. This includes, but is not limited to, such machines as chain saws, aircraft, snowmobiles, generators, motor boats, and motor vehicles. It does not include small battery or gas powered handcarried devices such as shavers, wristwatches, flash-

[1] Conversation with Denise McCaig, Recreation Management Staff, U.S. Forest Service, May 17, 1990.

lights, cameras, stoves, or other similar small equipment.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Washington, DC, Oct. 13, 1989.

Hon. JOHN J. RHODES III,
House of Representatives,
Washington, DC.

DEAR MR. RHODES: Thank you for your letter of October 6, 1989, regarding current Bureau of Land Management (BLM) policy concerning the operations of certain types of mechanical transport in designated wilderness areas. As you know, the BLM's policy for wilderness area management is based on the Wilderness Act of 1964 (Public Law 88-577), the Federal Land Policy and Management Act of 1976 (Public Law 94-579), and subsequent legislation that may contain specific language for the management of a given designated area.

The BLM policy determination is that existing wilderness legislation generally prohibits the use of motorized equipment and other forms of mechanical transport. Using this interpretation, mountain bikes and other non-motorized bicycles are prohibited because they are considered to be a form of mechanical transportation. H.R. 3172 would amend the Wilderness Act of 1964 to allow for the use of non-motorized bicycles. We are presently managing designated wilderness areas to exclude non-motorized bicycles. A copy of the BLM wilderness management regulations on motorized uses and mechanical transport prohibitions is enclosed.

The issue of the operation of wheelchairs by persons with mobility impairments in designated wilderness aeas is not as clear. As stated above and as a general rule, public use of motorized equipment or any form of mechanical transport is prohibited. As a policy exception, the BLM does not prohibit the use of wheelchairs by persons with mobility impairments in wilderness. The other National Wilderness Preservation System managing agencies (i.e., Forest Service, National Park Service, and the U.S. Fish and Wildlife Service) use this same approach. During 1990, the BLM will be revising the existing management regulations for the BLM wilderness areas, and we propose to include language that will specify that the use of wheelchairs by persons with mobility impairments are not considered as mechanical transport or motorized equipment within the intent of the regulations. Hopefully, this regulatory change should clarify the matter.

Let us assure you of our commitment to providing a variety of recreation and other types of use opportunities on lands managed by the BLM. Although wilderness areas may not be appropriate for all types of activities, lands outside wilderness areas can and are being used to provide for a broad range of activities including mountain biking. We will continue our efforts to improve legal and physical access by the mobility impaired to public lands administered by the BLM.

Thank you for your interest.

Sincerely,

CY JAMISON,
Director.

NATIONAL PARK SERVICE

Wheelchair access is addressed in section 6:8 of Management Policies: U.S. Department of the Interior, National Park Service, 1988, as follows: *"Mobility impaired persons may use wheelchairs (as defined in 36 CFR 1.4) in wilderness."* [Emphasis added]

36 CFR 1.4(a) defines manual wheelchairs as ". . . a device that is propelled by human power, designed for and used by a mobility-impaired person." Motorized wheelchairs are defined as ". . . a self-propelled wheeled device, designed solely for and used by a mobility-impaired person for locomotion, that is both capable of and suitable for use in indoor pedestrian areas."

In addition, 36 CFR 1.2(3)(e) states:

The regulations in this chapter are intended to treat a mobility-impaired person using a manual or motorized wheelchair as a pedestrian, *and are not intended to restrict the activities of such a person beyond the degree that the activities of a pedestrian are restricted by the same regulations.* [Emphasis added]

Mr. GEJDENSON. Mr. Chairman, I rise in support of H.R. 2273, the Americans With Disabilities Act of 1990.

This is one of the most important bills the Congress has voted on since the Civil Rights Act of 1964. It builds on the great American traditions of equality and equal opportunity. It breaks down barriers which have insensitively segregated America's 43 million disabled citizens, literally stopped disabled people in their tracks, and held them back from opportunities other people take for granted. This bill opens new doors of opportunity for our disabled citizens and for our cumulative potential for growth and development as a society.

Because it eases disabled persons' access into the work force and other central community activities, the Americans With Disabilities Act of 1990 is good for American business and growth. Approximately two-thirds of disabled Americans are unemployed, but this tragic statistic can be drastically altered by simple measures, such as widening of doorways and construction of ramps to accommodate wheelchairs, and improving the accessibility of public transportation. The talents and contributions of disabled Americans are too often wasted because these citizens simply lack adequate access to the workplace.

The concerns of business are also reflected in this thorough and thoughtful legislation. For existing facilities, the standard is to make reasonable accommodation which does not cause the employer undue financial hardship. Indeed, the greatest impact of the Americans With Disabilities Act may be in the future, because the act requires that future construction of public facilities, large office buildings, and public transportation be accessible.

It is important to remember that any of us could join the ranks of the disabled at any time. Accidents and illnesses are equal opportunity disablers. I am pleased to support this important legislation to ensure equal opportunity for the disabled.

Mr. WOLPE. Mr. Chairman, I rise in strong support of the Americans With Disabilities Act. This critical legislation would extend basic civil rights protection to a highly important yet often neglected segment of society—persons with disabilities.

For too long, persons with disabilities have been excluded and denied meaningful opportunities to participate in the economic and social mainstream of American life. This must be changed.

The need for this legislation is clear. Studies show that millions of Americans with disabilities are still subjected to widespread discrimination and segregation in all significant areas of their lives.

Despite existing disability rights and services, Federal and State laws are inadequate to address the discrimination faced by people with disabilities.

The forced dependency of our increasing population of people with disabilities has resulted in escalating economic burdens on Government, business, families, and taxpayers. It has been estimated that excluding 10 million citizens with disabilities from the workplace costs our society about $300 billion annually.

The Americans With Disabilities Act is the product of years of study and compromise. I am confident that this legislation, in its final form, will reflect both the urgent needs of persons with disabilities and the interests of employers and busineses who are concerned with the potential costs of compliance. In that connection, I am pleased that Chairman ROSTENKOWSKI has provided assurances that a small business tax credit for expenses associated with this measure will be considered by the Ways and Means Committee as it develops legislation later this year.

The Americans With Disabilities Act is a landmark affirmation of human rights for the 43 million Americans with disabilities. Partial equality is no longer tolerable for persons with disabilities. Partial equality, written into law, simply guarantees more segregation, more unemployment and more public and private expenditures for welfare. I strongly urge passage of this critically needed legislation.

Mr. DELAY. Mr. Chairman, the American people ought to see what is going on in this Chamber and outside these halls. Everyone is running around patting each other on the back, feeling wonderful about this bill, about how they are going to bring fairness to the disabled by the passage of ADA. We are going to stop discrimination against the disabled and this bill is going to do it.

I think it is very sad that we had an opportunity to pass a piece of legislation that could have made a statement by this country against discrimination against the disabled, giving them full opportunity and not hurting anyone in the process; yet those proponents who have worked on this bill find fault with what is happening here. The disabled community showed little or no compassion for people on the side when they were demanding compassion for their side.

The bill went through the entire process with people having sit-ins in our offices, calling people that would dare question the authors of this bill "devils incarnate."

The disabled community did not want compassion, did not want compromise, did not want to work out a deal so that there would be fairness on all sides. They demanded—they demanded that you vote for this bill without amendments. I think that what has happened during this process is very unfortunate.

It went through the Senate that way. Our administration made a deal on this bill back when it was in the Senate and our administration knew that there were some things in this bill that needed to be corrected, yet they failed to take a position on those issues. I will talk about the issues as we get into the

amendments, but I think this is really unfortunate because they are Americans out there who are trying to make a living, creating jobs, creating a future for this country, that have been abused, have been discriminated against in this bill, have been ignored when they have tried to work out some sort of way of knowing who is disabled, and how they comply with this bill.

The answer by the disabled community and the proponents of this bill is, "Well, let the courts decide."

Well, if you are a mom and pop operation out there trying to make a living, you cannot afford the lawyers that you will have to hire to defend yourself in court.

No consideration, only eight amendments brought to this floor and limited time to discuss those amendments. I think it is glossy unfair. I think this is a horrible piece of legislation. It could have been a good piece of legislation if Americans would have worked together in fairness and compassion.

I would like to take a few minutes to point out to my colleagues several of the provisions of the ADA that will adversely affect businesses in this Nation.

Small business are the backbone of America's economy. Yet, small businesses are curently facing a full array of legislation that they, not the public in general, are expected to pay for. Mr. Chairman, it is not inaccurate to say that businesses in this Nation are at risk. From the mandated increase in the minimum wage, to the mandated parental leave bill, to the clean air bill, to the Americans With Disabilities Act, the American businessman is being confronted with the stark reality of the 1990's—that if the liberals can't get the government to fund their new programs—they will require businesses to fund them. "Put it on the employer's nickel." That's what we're being told. Well, Mr. Chairman, this Member from Texas doesn't agree.

The Americans With Disabilities Act could be a very positive step, a landmark piece of legislation that would enable the disabled to fully participate in jobs and public facilities. But I'm afraid that instead, the bill will create frustration for business owners and employers who will not understand how to comply with the requirements of the bill. I'm also afraid that the bill will create bitterness against the disabled because of the spending mandate that it places on businesses. Mr. Chairman, mandating access for the disabled is a reasonable requirement. Mandating that a business spend money to provide that access is something different. But leaving the spending mandate open ended—with the courts determining how much small businesses must spend to accommodate the disabled—is unheard of. And this open-ended spending mandate is exactly what the ADA requires of small businesses.

Mr. Chairman, this Congress should not pass the ADA unless it also allows for a tax credit for businesses who will be forced to spend money on accommodations for the disabled. A bipartisan bill to provide a tax credit to small businesses has been introduced and enjoys the support of 186 cosponsors. H.R. 3500, the Small Business Access Improvement Act of 1989, would provide a tax credit for some of the businesses that will be forced by the courts to spend money because of the ADA. Mr. Chairman, this tax credit is not just a good idea, it is essential.

It is essential because the accommodations mandated by the ADA will cost money. Many advocates of the bill have maintained that the costs of the accommodations mandated by the bill will not be expensive, but the fact remains that the courts and the regulators will make that determination.

Even though opponents of the bill claim that the accommodations are no big deal, even the most frequent accommodations can prove costly for the small business. According to the National Federation of Independent Business, the following are average costs of the most frequent accommodations: $1,000 to $10,000 for a concrete ramp; $3,000 to widen and install a new exterior door; $300 to $600 to widen and install a new interior door; $200 to lower an existing water fountain; $300 to $3,000 to modify an existing rest room; $23/hour to hire a certified sign language interpreter; $2.50 per page to translate written text into Braille form; $5,000 to purchase a computer with speech synthesizer and appropriate software for the blind.

Mr. Chairman, it is clear that even frequent accommodations that will be mandated will cost money. Therefore, a tax credit must be provided for businesses that will be required to make accommodations under the ADA! I would like to insert into the record at this time, an article explaining the importance of this tax credit. The article explains that many of the costs of accommodations that were projected during consideration of the Fair Housing Amendments of 1988 turned out to cost much more than the proponents of the bill projected.

The article follows:

LAW MAY HANDICAP HOUSING EFFORT

(By Carolyn Lochhead)

Back in August 1988, when Congress was about to pass a law requiring that new apartments be made accessible to the disabled, particularly persons in wheelchairs, Sen. Edward M. Kennedy, a Massachusetts Democrat, assured colleagues that it would add just $27 to the construction cost of each new apartment. Sen. Tom Harkin, an Iowa Democrat, further admonished skeptics, who, he said, would tell "a Vietnam veteran who has lost his legs . . . that 10 bucks or $4 to widen the door to a bathroom is too much" to spend to make housing accessible.

Passage of the Fair Housing Amendments Act of 1988 was swift, and its full implementation is set for next March. But the law has already begun to take effect nationwide. Builders who have secured building permits since Jan. 13 are operating under the new rules. These require wheelchair accessibility to and through all new apartments in buildings with elevators and all ground-floor apartments in other new multifamily projects. Builders who fail to conform could face charges of housing discrimination.

As it turns out, the cost figures tossed about during the congressional debate—$27 here, $4 there—are in reality closer to $4,000 per apartment, on average. What were thought to be simple definitions of access—"usable, maneuverable"—are instead the subject of debate. What were considered minor changes in construction—wider doors, larger bathrooms—could in practice scuttle thousands of apartment projects by raising the size of entire buildings and making many sites impractical.

The regulatory crunch on apartment housing comes even as Congress frets over a shortage of affordable housing for poorer households. Affordable housing usually means multifamily housing. To some groups representing the disabled, affordability is a key ingredient in accessibility; if the law sharply raises housing costs, its very purpose would be defeated. The disabled, who generally have lower-than-average incomes, are among the first to see higher housing prices restrict their options.

"If the cost of all these accessibility features raises the cost of the apartment so high that [disabled people] can't afford it, then what have you achieved?" asks Fred Cowell, national advocacy director of the Paralyzed Veterans of America. A law's prohibitively expensive requirements that are too impractical and inflexible for builders to follow, the group argues, would merely create another barrier to access.

Notably, the housing act may be a harbinger of the Americans with Disabilities Act, a bill likely to pass Congress this year that would extend disability access rules to all existing commercial establishments, from beauty shops to bakeries. While everyone agrees that the bill's intentions are lofty, critics warn of skyrocketing costs and vague language whose meaning will ultimately be settled by the courts. Lawyers are already discussing "wrongful design" suits under the new law for multifamily housing.

So far, bureaucratic delay in issuing guidelines that tell builders exactly what they have to do to comply with the fair housing law has brought apartment construction to "a screeching halt," says Henry Hirsch, chairman of Engineered Concepts Inc., an Atlanta construction company. Building permits soared to beat the Jan. 13 deadline, as builders rushed to get clearance for projects under the old rules, and then dropped sharply in February as the new law took effect. Multifamily housing "really can't be built today," Hirsch says, "because nobody knows how to build it. Whoever does choose to build is taking a very major risk."

Preliminary drafts of guidelines from the Department of Housing and Urban Development (the final version is already more than a year behind schedule) promise to add thousands of dollars to the price of every new apartment covered by the law. That translates immediately into higher rents. about 1 percent per month for each $1,000 in higher costs. So a $4,000 increase in construction costs raises the rent roughly $40 a month.

A task force that brought together the National Association of Homebuilders and the National Coordinating Council on Spinal Cord Injury (led by the Paralyzed Veterans of America) estimated that HUD's draft guidelines would add $3,202 to $4,252 to the cost of each apartment in buildings with elevators, and $1,288 to $3,666 to each ground-floor apartment in walk-up projects.

The home builders and veterans, seeking a compromise that would hold down costs and achieve accessibility, came up with a detailed set of guidelines that lower those costs to a range of $1,318 to $2,256 for mid- to high-rise units and $674 to $2,564 for walk-ups. They contend that their plan would achieve better accessibility. "We can't make developers build units that aren't marketable, that won't sell and are expensive, because that doesn't make for a deal, and they won't enter into it," says Kim Beasley, director of barrier-free design for

the Paralyzed Veterans. "If we can't make these provisions easy to understand and relatively easy to apply and achieve the degree of accessibility that Congress intended, then it's a lost cause."

The HUD approach, these groups argue, is counterproductive and inflexible. The agency, for example, would make all bathrooms not only accessible but also large enough so that a wheelchair could be maneuvered in them. The task force says one "maneuverable bathroom" would suffice. To determine how to make units built on hilly terrain accessible, HUD proposes a vague formula that promotes second-guessing and litigation. With the HUD approach, says Beasley, "someone will say, 'Well, you could have raised the building 12 inches or moved it this much closer to the parking lot, and because you didn't and we think you could have made it accessible, we're going to sue.'"

Several other groups for the disabled argue that the home builders-veterans task force has overstated costs. Bonnie Milstein, senior staff attorney for the Mental Health Law Project, argues that the law's requirements are "minimal."

Nonetheless, builders say higher construction costs will arise primarily in two areas: added floor space in the interiors of apartments and site improvements to provide access to the units themselves, particularly on hilly terrain.

Although no one knows what HUD will ultimately require, it seems clear that bathrooms, kitchens and doorways, as well as areas next to doorways, will have to be wider to accommodate wheelchairs. As these elements grow, the building expands. While some groups for the disabled dispute this, builders note that the only way to maintain a constant building size is to take the space from other areas, by reducing the size of bedrooms or closets, for example, or by eliminating pantries. Rhond Roth, vice president of the National Multi Housing Council, calls this the "rob Peter to pay Paul approach to design."

The effect, he says, is to reduce the appeal of the unit by removing such desirable features as bedrooms that accommodate a queen-size bed—features that market research indicates renters want. To maintain marketability, he says, the size of the unit must grow, and "your costs are inevitably going to increase."

Beasley agrees. "If you take a foot out of the bedroom to increase the size of the bathroom, you can no longer say that you achieved accessibility at no cost. Something was sacrificed." In many cases, that sacrifice will be the developer's ability to rent the unit.

As the size of the apartments grows, density, or the number of units in the building, falls. A lower density spreads the cost of the project among fewer units, significantly raising the price of each apartment, especially in high-rise buildings.

Site access problems are more prominent for walk-up units, especially those built on hilly terrain, which is often the only vacant land left in cities. Hills usually mean steps. New draft accessibility rules could require extensive earth-moving or building massive ramps to entrances. When the task force applied one of the draft HUD rules to an actual building site in Northern Virginia, one result was a ramp 60 feet long. Site grading, particularly on rock, is extremely expensive. As soon as a sites' slope gradient reaches 10 percent, says Roth, "then your cost curve for making the buildings accessible just goes ballistic."

Costs will vary widely by site, and until HUD issues guidelines, no one knows exactly how high they might run. But it is clear that thousands of planned apartment units marginally profitable under the old rules will not be built. The more onerous the requirements and the greater the litigation exposure, the higher costs—and rents—will rise. The higher the cost, the fewer the apartments. As new construction drops, demand for apartments will be diverted to existing stock, fueling rent increases there.

An exemption in the regulations for town houses could turn the Fair Housing Amendments Act into something like a Town House Creation Act, as builders divert construction to buildings that are not covered by the law. Already, some developers are requesting rezonings.

I believe that this article accurately describes why a tax credit is in order. This article, by the way, is an excellent example of why the gentlemen from Virginia's [Mr. OLIN] amendment is needed.

There is another issue that could adversely affect small businesses. As introduced, the legislation states that the term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that he or she holds or desires.

Mr. Chairman, the term "essential functions" is too vague. Senate report language states, "The phrase 'essential functions' means job tasks that are fundamental and not marginal." It also states "In determining what constitutes the essential functions of the job, consideration should be given to the employer's judgment regarding what functions are essential as a matter of business necessity."

An amendment that passed in the House Judiciary Committee mark-up, put into the statute similar language contained in the Senate report. It clarified that ". . . consideration shall be given to the employer's judgment as to what functions of a job are essential."

But this clarification is not adequate either. The business community advocates further clarification of this phrase because businesses will be required to analyze the tasks of each job. Determining the essential functions will involve a painstaking analysis of job functions by the employer in order to determine which functions are essential and which functions are marginal.

Mr. Chairman, most businesses do not have the staff to undertake such an endeavor. I offered an amendment before the Rules committee which stated that if an employer required all applicants to perform a function, and could show that the current employees performed a function, then that function shall be deemed essential.

I would like to insert into the RECORD at this time, testimony given at a hearing held by the Republican Study Committee earlier this year on this issue. At the hearing an attorney here in Washington, Mr. Ronald Lindsay, explained the need for such an amendment.

Testimony of Mr. Ronald Lindsay follows:

TESTIMONY OF RONALD A. LINDSAY BEFORE THE REPUBLICAN STUDY COMMITTEE ON THE AMERICANS WITH DISABILITIES ACT

I am an attorney who practices in the area of employment discrimination. For the past ten years I have defended companies against charges of employment discrimination, including charges involving allegations of handicap or disability discrimination. Based on that experience, my own research in this area of the law and concerns that have been expressed to me and to other attorneys in my firm by a number of businesses, I would like to outline some suggestions on how the Americans with Disabilities Act, in particular, Title I of the Act, might be improved to limit the negative impact it may have on employers, especially small to mid-size employers.

Before I begin with some specific suggestions, I want to emphasize the dramatic differences between this bill and other employment discrimination legislation. The ADA has been described as just another civil rights measure that extends to the disabled the protections that have already been given to blacks, women and the elderly. It is not. Unlike Title VII of the Civil Rights Act of 1964 of the Age Discrimination in Employment Act which, at least theoretically, only require businesses to make decisions based on merit, the ADA expressly imposes costs on employers. The ADA tells employers that they must offer "reasonable accommodation" to the known physical or mental disabilities of a qualified applicant or employee. This is a significant departure from other civil rights legislation. At a time when we are legitimately concerned about the competitiveness of American business, it is questionable whether we should impose additional burdens on employers, especially if the magnitude and scope of these burdens is unclear.

There is another significant difference between the ADA and other federal civil rights legislation. Other civil rights legislation protects individuals in classes that are fairly readily definable. It is usually fairly easy to determine whether someone is a black or not, a woman or not, elderly or not. Not so with the disabled. The disabled are a class in name only. There are over a thousand different impairments that could render a person disabled, and, therefore, protected for purposes of the ADA. Moreover, an impairment that is disabling for one person might not be for another. A particular job might be suitable for a person with a moderate form of a given disability, but not a severe form of the same disability. At least as the legislation is currently written, determining whether a given accommodation to a person's disability is "reasonable" will entail evaluation of a whole host of factors. In short, for a business to determine whether it is engaging in unlawful discrimination against a disabled person may require a detailed, fact-specific, individualized inquiry. This case-by-case analysis would by itself result in a significant expenditure of time and money.

Let me now turn to some specific suggestions. A number of proponents of the ADA have contended that most of the accommodations that employers will be required to make will cost little or nothing and that, in any event, the bill indicates that employers do not have to accommodate a disabled worker if doing so will impose an "undue hardship" on the employer. I think it is fair to say that most accommodations are going to cost under a couple of hundred dollars. However, that is not going to be any consolation to the business that has to hire a $15,000 a year proofreader to assist a clerical worker who has developed a neurological disorder that substantially impairs his ability to complete paperwork. See *Arneson v.*

Heckler, 879 F.2d 393 (8th Cir. 1989). Similarly, the fact that the ADA indicates that the size and budget of a business will be taken into consideration in determining whether a given accommodation is reasonable will be small comfort to those employers who guess wrong about how the courts will view their resources.

I think the best way to deal with this problem is to put a statutory cap or ceiling on the costs an employer has to incur in accommodating disabled employees. One possibility would be to indicate in the bill that an employer will not be required to expend more than 5% of the salary for a particular position in accommodating a disabled employee. Thus, to accommodate a disabled employee in a position which pays $30,000 per year, the employer would not be required to expend more than $1,500. If the costs of accommodating the disabled are as small as the proponents of the legislation suggest, then this should not impede the entry of the disabled into the work force. A cap would, however, remove much of the uncertainty regarding the extent of an employer's duties. To take care of the situation in which an employer is asked to accommodate several disabled employees, a similar cap could be imposed on the total costs an employer has to incur on an annual basis to comply with the ADA (*e.g.*, no more than .05% of the employer's payroll).

Of course, a disabled individual is entitled to protection against employment discrimination only if he or she is "qualified," which is defined in the bill as being able to perform, with or without reasonable accommodation, the "essential" functions of the position the individual holds or desires. But what are the "essential" functions of a position? The report issued by the Senate Committee on Labor and Human Resources in conjunction with the Senate version of the bill states that "essential functions" means "job tasks that are fundamental and not marginal." This is defining the obscure by the vague. Unless we want courts requiring employers to provide a painstaking and minute analysis of all the tasks an individual might perform in a given job and then concluding that a function was not "essential" because it took up "only" 10 percent of the employee's time, see *Ackerman v. Western Electric Co.*, 643 F. Supp. 836 (N.D. Cal. 1986), aff'd, 860 F.2d 1514 (9th Cir. 1988), the definition of "essential" job functions should be clarified to indicate that deference will be given to an employer's judgment regarding what functions are "essential." The efficiency of American business will clearly suffer if we have judges or administrative agencies telling employers how they should operate their business.[1]

Some might contend that the suggestions I have made, particularly this last one, place too much trust in employers. I do not think so. The genius of the free enterprise system is that those who operate a business are given a powerful incentive to make employment decisions on the basis of merit: they make more money if they do so. Because of this incentive, and because of the uncertainty surrounding employers' obligations under the ADA, I feel confident in predicting that the overwhelming majority of the cases in which employers will be found to have violated the Act will involve good faith mistakes, for example, a mistake about whether the person is disabled or is qualified for the job. For that reason, it would clearly be improper to impose compensatory or punitive damages on employers for violations of the Act. The remedies provision of the ADA should explicitly indicate that a prevailing complainant may obtain only back pay or other equitable relief. In this regard I note that the Senate version of the ADA incorporated by reference the remedies provision of Title VII of the Civil Rights Act of 1964. The intent of this cross-reference was to limit relief under the ADA to back pay or other equitable relief. Unfortunately, there apparently will be an attempt in the near future to amend Title VII to provide for compensatory and punitive damages. If that happens, an important modification to the ADA that employers thought they had achieved will be lost. Therefore, in the version of the bill passed by the House there should be an express statement of the relief available under the ADA, rather than a mere cross-reference to Title VII.

These suggestions are certainly not the only ones that could be made to improve this bill. (I have not even touched on the public accommodations section of the Act.) Nonetheless, if these suggested modifications, or similar ones, are incorporated into the bill, I think they will significantly lessen the detrimental impact the ADA might otherwise have on the competitiveness of American business.

Mr. Chairman, the House Education and Labor version of the ADA defines undue hardship as, "an action requiring significant difficulty or expense." Readily achievable is defined as, "easily accomplishable and able to be carried out without much difficulty or expense."

Mr. Chairman, I believe that further clarification of the terms undue hardship and readily achievable is necessary. ADA proponents oppose providing further criteria for these terms by claiming that they are already defined in section 504 of the Rehabilitation Act of 1973. However, the appropriateness of section 504 regulations to be applied to the ADA is in question as the section 504 regulations apply to entities that are not primarily profitmaking enterprises. These entities are supported by the Federal Government and have the deep pockets that small businesses don't have.

The lack of clarification of this term unnecessarily puts disabled individuals at odds with business owners. Representative OLIN's amendment will specify that if an employer spends 10 percent of the annualized wage of the employee, then it will constitute an undue hardship. This amendment is necessary and should be passed. The NFIB has indicated that this will be one of their key business votes for this Congress.

Mr. Chairman, I would now like to address an issue which unfortunately has not received much attention on the House floor. Mr. Chairman, the bill defines discrimination as "excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association."

This language is intended to cover job applicants whose dependents are disabled, and persons who offer care to the disabled. For example, it is intended to provide that a father of a disabled child could not be discriminated against in employment because his child's disability may increase the cost of his employer's health insurance.

Mr. Chairman, this language is too broad, and will, I believe, result in coverage for nondisabled persons. Of particular concern is the potential for providing coverage for unmarried partners of the disabled, for unmarried partners of persons with HIV, and for unmarried partners of those individuals regarded as having the HIV.

My colleagues, Representative BARTLETT, Representative MCCOLLUM, and I have offered amendments to clarify that coverage of individuals who have a relationship or association to the disabled is limited to factors such as blood, marriage, adoption, or legal guardianship, or is based upon the provision of social service assistance or health care services to an individual. However, the Rules Committee did not allow these amendments to be offered on the House floor.

This amendment is, therefore, not part of this debate, but it is one very important example of why this bill must substantially improve before it is passed by this body.

Mr. Chairman, the ADA's protections for persons with mental impairments will prohibit civil and military authorities from adequately screening applicants who may suffer from mental, emotional, or behavioral disorders.

My colleague, Representative CHUCK DOUGLAS, offered an amendment before the Rules Committee allowing a government unit, charged with protecting the public safety, the ability to ask questions and conduct examinations that it feels necessary in order to determine whether an applicant possesses sufficient mental stability to perform job-related functions before an offer of employment is extended. The amendment was not allowed by the Rules Committee and is therefore not part of this debate. However, this is another example of why the bill needs further improvement before it should be passed by this body.

Mr. Chairman, as pending, the ADA exempts private clubs from the definition of employer, but includes churches and nonprofit organizations. My colleague from New Hampshire, Representative DOUGLAS, and I both offered amendments before the Rules Committee to exempt religious organizations from the definition of employer. Certainly, our churches deserve the same treatment we give to our country clubs. Groups supporting these amendments were the National Association of Evangelicals, the Association of Christian Schools International, the General Conference of Seventh-day Adventists, the International Church of the Foursquare Gospel, and the Concerned Women for America.

Mr. Chairman, I would like to briefly address the issue of contagious diseases. Current law, and the ADA, classify contagious diseases as disabilities. I disagree with this policy. I acknowledge that the infected have rights, but believe that sound public health policy must give priority to protecting those not infected, rather than those infected.

Mr. Chairman, I would also like to point out that the House Education and Labor version

[1] One possible way to clarify the current definition would be to add to the current definition of "qualified individual with a disability" the following language: "If an employer produces evidence showing that other individuals holding the employment position in question are required to have the ability to perform a specific function and have in fact performed this function, this will constitute prima facie evidence that the function is essential."

of the ADA allows for Congress to be covered by the bill. However, I believe that there is a weakness with the enforcement mechanism. The enforcement mechanism is through the Office of Fair Employment Practices [OFEP] which was established by House Resolution 558 in the 100th Congress. The OFEP is chaired by House Members and staffed by employees appointed by members of the House Administration Committee. The Education and Labor version of the ADA provides that an appeal to the OFEP is the only option for House employees who are victims of discrimination.

House employees may not take their case to a court of law. Many Members echo the concern of Senator CHUCK GRASSLEY, "Why should it be acceptable for Congress to be the defendant, trier, and judge in a suit against itself? Victims of discrimination should not be forced to move their claims within the very institution that has discriminated against them."

My colleague, Representative BILL DANNEMEYER, offered an amendment in the Judiciary Committee markup to specify that any determination made by the OFEP be subject to judicial review in the appropriate U.S. district court, and to require the accommodations mandated by the ADA to be paid for from Members' official expense accounts.

Under his amendment each congressional office would be required to make any accommodation that would be required of any small business. The amendment was defeated by the committee. Representative DANNEMEYER offered this amendment before the Rules Committee as well, but it was defeated there also. This amendment should be debated today. It is hypocritical that every small businessman is required to accommodate the disabled, but our congressional offices are not.

Finally, Mr. Chairman, I would like to point out to my colleagues that there is a problem with the ADA bill that has surfaced in response to the introduction of H.R. 4000, the Civil Rights Act of 1990.

The ADA and H.R. 4000 both propose that it shall be discrimination for an employer to use qualification standards or criteria that screen individuals unless the criteria is "Consistent with business necessity." "Consistent with business necessity" is too severe a standard to use for such purposes. The Supreme Court agreed with this in the recent Wards Cove decision.

A better standard would be "* * * unless the criteria serves legitimately an employment goal," or "unless the criteria is consistent with reasonable business practice".

The administration, which opposes H.R. 4000, holds that "consistent with business necessity" is too difficult for employers to prove in court, and that it would lead to the enactment of employment quotas. But, the ADA seeks to implement this standard also. Thus, the ADA seeks to overturn the Wards Cove decision, a decision that the Bush administration supports. Mr. Chairman, this issue has not been adequately addressed by Members from either side of the aisle, yet it is one more example of how much more work must be done on the ADA before it is passed by this body.

The last issue that I want to address is the issue of costs. Advocates of the legislation are quick to point out that the costs of the bill will be offset over time through the savings to the U.S. Treasury of the billions of dollars currently spent on Federal programs that support disabled individuals. However, as the costs of the bill to businesses, State and local governments, and the Federal Government are presently unknown, this justification cannot be accepted as valid.

Mr. Chairman, I agree with the intent of the legislation. Ending discrimination against the handicapped is a noble cause. However, the legislation as reported from the House committees, and as considered by the full House, is wrought with uncertainties. These uncertainties pose real and sobering consequences to businesses, to families, to the disabled, and to America's competitiveness. Mr. Chairman, until more can be known of these very serious consequences, I have no choice but to oppose passage of the ADA.

Mr. GINGRICH. Mr. Chairman, today the House will vote on H.R. 2273, the Americans With Disabilities Act. This historic measure is designed to bring some 43,000 Americans into the mainstream of our society.

Since 1973, Federal law has prohibited Federal agencies and recipients of Federal funds from discriminating against persons with disabilities. H.R. 2273 would extend that prohibition to the private sector, in employment, service and public transportation, public accommodations, and telecommunications.

Some may ask why a Republican President and Republican Members of Congress have actively worked for this expansion of civil rights law. To answer the question, look to the very foundation of conservative philosophy—individual opportunity.

Mr. Chairman, throughout our Nation's history, our disabled citizens have not been provided the opportunity to participate in all phases of society. Designed to provide 43,000 Americans with enhanced opportunities, this bill, then, embodies the conservative ideal of individual opportunity.

In August 1862, President Abraham Lincoln said, "It is difficult to make a man miserable while he feels he is worthy of himself and claims kindered to the great God who made him." What greater way to make a man feel "worthy of himself" than to give him hope through opportunity. Mr. Speaker, that's what this bill is all about.

I hope all Members will take time to review the bill before us today and compare it with the Senate-passed measure. The four House committees involved have made some key improvements to the legislation. The language has been tightened up in several important areas:

Current users of illegal drugs are not protected by the bill;

Anticipatory discrimination claims are limited to new construction;

Employers and public accommodations are only liable for discriminatory actions against their own employees or customers, not for actions taken by their contractors; and

Site-specific factors and parent-company factors must be considered when determining if a reasonable accommodation for a disabled employee is an undue hardship, or a barrier removal is readily achievable.

Improvements were also made in other sections of the bill, including public transportation. A full list of the major improvements is attached. By proceeding through its normal committee process, the House has crafted a superior bill to its Senate counterpart.

In adddition, last week on the floor, the House adopted two amendments which serve to further improve the bill. An amendment to allow small businesses an extended phase-in period for the public accommodations section of the bill was approved unanimously. Finally, an amendment to allow employers to move an employee with a communicable disease out of a food-handling position, provided the employee sustains no economic damage, was adopted.

Mr. Chairman, while major improvements have been made, there are still some problems. Any piece of legislation this complicated and far reaching is certain to create serious questions and concerns from those who ultimately will have to comply with its provisions. This is no exception.

But just as the committees worked their will, the House, and then the conference committee will work its will. We must send the President the best and most workable law we can write, so that 43,000 Americans will have more hope and opportunity for tomorrow than they have for today.

The House committee improvements made to the Senate bill.

IMPROVEMENTS IN THE EMPLOYMENT AND PUBLIC ACCOMMODATIONS TITLES

Drugs: Current users of illegal drugs are not protected by the ADA and the Rehabilitation Act of 1973.

Contract liability: Employers and public accommodations are only liable for discriminatory actions against their own employees or customers, not such actions taken by one of their contractors against other individuals.

Undue hardship and readily achievable: Site specific factors and parent company factors must be considered when determining if a reasonable accommodation for a disabled employee is an undue hardship—"significant difficulty or expense"—or a barrier removal for a disabled customer is readily achievable—(easily accomplishable without much difficulty or expense.)

Direct threat and safety: An individual with a disability who poses a significant risk to others cannot claim a right under the ADA to be in a workplace or public accommodation.

Anticipatory discrimination: Such discrimination claims are limited to new construction.

Damages: In pattern and practice cases brought by the Attorney General, when the Attorney General asks for monetary damages, such damages cannot include punitive damages.

PUBLIC TRANSPORTATION

Commuter rail: One car per train, rather than an unspecified number, must be made accessible.

Intercity private transit—buses: Although such companies must provide accessible transportation, they do not have to meet specific assessibility requirements for 6 or 7 years, depending on their size.

Key stations: These could have up to 30 years, as opposed to 20 years, to be made fully accessible.

Intercity rail: These would now have specific accessibility requirements, rather than unspecified requirements. Intercity rail would be expected to meet these capacity requirements: within 5 years, one space for an occupied wheelchair and one space for a folded chair in 50 percent of the coaches. Within 10 years this requirement would have to be met in 100 percent of the coaches. Doubling up to meet these requirements would be allowed, thus permitting nonaccessible coaches.

Mr. OWENS of New York. Mr. Chairman, it is important that the following clarifications relevant to employment be offered for the record.

The employment nondiscrimination provisions of the Americans With Disabilities Act define the term "qualified individual with a disability" as an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the job that such individual holds or desires.

"Essential functions" means job tasks that are fundamental and not marginal. The point of including this phrase is to ensure that employers can continue to require that all applicants and employees, with or without disabilities, can perform the essential—that is nonmarginal—functions of the jobs in question.

This concept was also addressed in the 1977 section 504 regulations issued by the Department of Health, Education, and Welfare which said, "inclusion of this phrase is useful in emphasizing that handicapped persons should not be disqualified simply because they may have difficulty in performing tasks that bear only a marginal relationship to a particular job." 42 Fed. Reg. 22686 (1977). In determining the essential functions of a job, consideration should be given to the employer's judgment, because an employer may require that every employee be qualified to perform the essential functions of the job.

The inclusion of the term "qualified" underscores the employer's perogative to choose and maintain qualified workers. The employer is free to select the most-qualified applicant, and is under no obligation to prefer applicants with disabilities over other applicants. But if two applicants are equally qualified, an employer is not permitted to select the nondisabled applicant solely due to the other applicant's disability, even if the disability means the employer would have to provide some kind of accommodation.

"Qualified" means whether the individual is qualified at the time of the job action in question. The mere possibility of future incapacity does not render the individual not qualified.

Employers may devise physical tests and other job criteria and tests as long as the criteria and tests are job-related and consistent with business necessity. For example, an employer can adopt the physical criterion that an applicant be able to lift 50 pounds, if that ability is necessary to an individual's ability to perform the essential functions of the job in question. But even if the criterion is legitimate, the employer must determine whether a reasonable accommodation would enable the applicant with a disability to perform the essential functions of the job without posing an undue hardship on the business.

The ADA prohibits the use of a blanket rule excluding persons with certain disabilities, except in the very limited situation where, in all cases, a physical condition by its very nature would prevent the person with a disability from performing the essential functions of the job, even with reasonable accommodations.

EMPLOYMENT—SOME FORMS OF DISCRIMINATION PROHIBITED

In addition to a general statement prohibiting employment discrimination on the basis of disability, the Americans With Disabilities Act goes into some detail on the various forms of discrimination which are prohibited.

One section specifies that discrimination includes segregating, limiting, or classifying an employee in a way that adversely affects his or her opportunities or status because of his or her disability. Employment decisions are to be based on facts, not on presumptions as to what a class of individuals with a particular disability can or cannot do.

It would be a violation of the ADA to deny employment to an applicant based on generalized fears about safety or absenteeism. Such fears are, by their very nature, based on averages and group-based predictions. Moreover, many studies have proven these fears to be myths which are statistically untrue. The famous study by the Du Pont Co. in 1973 was the first of many to show that disabled employees don't raise insurance costs and have equal or better attendance, performance, and safety records than average.

Employers may not deny health insurance coverage based on diagnosis or disability. Any limitations in insurance coverage must be limitations that are placed on all emloyees equally.

It is also considered discrimination under the ADA if an employer participates in a contractual or other arrangement or relationship with an organization that has the effect of subjecting a qualified applicant or employee with a disability to discrimination. This includes benefits and personnel-related contracts. For example, if a company contracts with another organization to provide personnel services, the contractor cannot treat the company's applicants or employees in any way that would be prohibited by the ADA if the company operated its own personnel functions.

The act also prohibits discrimination against any individual because of the known disability of another individual with whom the first individual has a relationship or association. For example, it would constitute discrimination for a nondisabled woman to be denied a job by an employer because she is the mother of a disabled child and the employer fears she would be absent too frequently due to her child's disability. However, if the hire was made, and the woman violated an across-the-board company policy relating to attendance or tardiness, she would not be protected because of her child's disability. The company does not owe its nondisabled employees accommodations under the ADA.

The act includes a requirement that employers must post notices in an accessible format to applicants and employees describing the ADA's relevant provisions.

EMPLOYMENT—MEDICAL EXAMINATIONS AND INQUIRIES

Historically, employment application forms and interviews have requested information concerning applicants' physical and mental condition. This information has often been used to exclude applicants with disabilities, particularly hidden disabilities like epilepsy, diabetes, emotional illness, heart disease, and cancer, before their actual ability to perform the job was even evaluated.

In order to eliminate these discriminatory practices and assure that misconceptions do not bias the employment selection process, the ADA sets forth a process which begins with the prohibition to preoffer medical examinations or inquiries. The requirements are parallel to the regulatory requirements under section 504 of the Rehabilitation Act of 1973.

What is prohibited is any identification of a disability by inquiry or examination at the prejob offer stage. Employers may ask questions which relate to the applicant's ability to perform job-related functions, but not whether they have a disability. For example, an employer can ask an applicant for a construction job if he or she can climb scaffolding and operate heavy construction tools, but cannot ask if he or she has a disability.

The only exception is that postoffer medical examinations may be conducted if they are given to all entering employees in a particular category, if the results are kept confidential, and if the results are not used to discriminate against individuals with disabilities—unless such results make the individual not qualified for the job. This rule meets the employer's need to discover job-related disabilities.

Once an employee is hired, the person's performance on the job is the best indicator of the person's qualifications. An inquiry or medical examination that is not job-related serves no legitimate employer purpose, and stigmatizes the individual with a disability.

Mr. ROWLAND of Connecticut. Mr. Chairman, I wish to indicate my unequivocal support for the Americans With Disabilities Act.

The disabled community has suffered for far too long. Time and time again, they have been told that they must conform to standards set by what is considered by others to be "normal." I am pleased that those days are finally over. From now on, the disabled will be protected from discrimination under Federal law. Passage of H.R. 2273 will enable the disabled to greatly expand their lives and enhance their quality of living. This is long overdue.

America is all about opportunity. However, the disabled have been denied full opportunity in this country. And this has not been because of the disabilities which these persons have, which in and of themselves can be daunting. Rather, it has been a result of external barriers which have prevented disabled individuals from fully participating in daily living. Let me briefly quote from a recent report of the United Nations Expert Group Meeting on Barrier-Free Design:

"Despite everthing we can do to assist each disabled person achieve his or her maximum potential in life, our efforts will not succeed until we have found the way to remove the obstacles to this goal: the physical bar-

riers we have created in public buildings, housing, transportation, houses of worship, centers of social life, and other community facilities, and the social barriers we have evolved and accepted against those who vary more than a certain degree from what we have been conditioned to regard as normal. More people are forced into limited lives and made to suffer by these man-made obstacles than by any physical disability."

Passage of this bill will remove the physical barriers to the disabled. Once the physical barriers have been eliminated, it is my hope and expectation that the social barriers will take care of themselves.

I do appreciate the concern voiced by some that the cost of compliance with this bill would be too high. However, I do not believe that cost should be an issue when it comes to providing civil rights protection for the disabled. Frankly, the present and future costs of disability to the country without this legislation would be much greater than any cost of this bill. Increased independence means increased productivity and greater self-sufficiency. This translates directly into a bigger and stronger work force, a more productive economy and less dependence on Government programs.

Mr. Chairman, this legislation is long overdue. I am pleased that Congress is finally addressing the rights of the disabled, and urge my colleagues to join with me in full support for H.R. 2273.

Mr. LEVINE of California. Mr. Chairman, I rise today to comment upon an important aspect of the bill before us.

One important contribution of the Americans With Disabilities Act is its rendering illegal and discriminatory program, service, or activity of State and local government.

Ever since section 504 of the Rehabilitation Act of 1973 was passed, it has been the law of the land that all programs and activities receiving Federal financial assistance cannot discriminate against people with disabilities. After the section 504 regulations were published and implementation efforts occurred, our Nation learned how beneficial these requirements were. Disabled people began to enter colleges, utilize social service programs, and take advantage of the wide spectrum of federally funded programs and activities in our Nation. Previously inaccessible courthouses and post offices were made accessible, and disabled persons could more fully participate in civic life.

However, comparable activities offered by State and local government have often been out of reach to disabled persons, because many States have no nondiscrimination mandates, and some which do are very poorly implemented.

In mandating nondiscrimination by State and local government, the ADA incorporates the section 504 regulations. This means that the entire spectrum of protections and considerations which have been successfully used to regulate Federal programs and activities will be available for State and local government. This includes requirements for program access, transition plans, nondiscrimination in employment and contracts, and all the other 504-related requirements.

One area that should be specifically addressed by the ADA's regulations should be the issue of nondiscrimination by police. Regretfully, it is not rare for persons with disabilities to be mistreated by the police. Sometimes this is due to persistent myths and stereotypes about disabled people. At other times, it is actually due to mistaken conclusions drawn by the police officer witnessing a disabled person's behavior.

For example, it is not unusual for a person with cerebral palsy, who might walk in a staggering manner, to be mistaken for someone who is drunk. Persons with epilepsy who are having seizures are often inappropriately dealt with by the police. Many times, deaf persons who are arrested are put in handcuffs. But many deaf persons use their hands to communicate, either through sign language or by writing a note to a nondisabled person who does not know sign language. The deaf person thus treated is completely unable to communicate.

Although I have no doubt that police officers in these circumstances are acting in good faith, these mistakes are avoidable and should be considered illegal under the Americans With Disabilities Act. They constitute discrimination, as surely as forbidding entrance to a store or restaurant is discrimination.

One way to cut down on these incidents is for police officers to receive training about various disabilities. Training programs are a good way to relay accurate information about disability. Some cities and States have already integrated this type of training, and their films, materials, and experience can serve as models.

Mrs. SCHROEDER. Mr. Chairman, the Americans With Disabilities Act will remove architectural and communication barriers that keep people with disabilities from fully participating in society. And it will also go a long way toward removing what may even be a more pernicious and destructive kind of barrier: barriers in attitude.

The attitudes nondisabled persons have toward fellow disabled citizens are often the most important factor leading to segregation, exclusion, discrimination, and unemployment. In the era we live in, we are witnessing a long-overdue shift, during which old prejudices are changing. The ADA will change these attitudes even more.

Some have claimed that, despite unfortunate prejudices, actual cases of discrimination against people with disabilities are rare. However, congressional testimony has revealed a picture of rampant, daily discrimination in every sphere of American life.

Mentally retarded persons are kept out of restaurants. Persons with cerebral palsy are turned away from theaters. Children with Down syndrome are not allowed to visit zoos. Employers cite fears of hiring disabled persons because their customers will feel uncomfortable or even repulsed. These cases reflect deep-seated misunderstanding which require the force of law to change.

One very important aspect of the Americans With Disabilities Act of 1990 is its broad sweep of coverage. The act correctly recognizes that disability discrimination is not limited to government offices and train stations; it is not limited to restaurants and hotels; it is not limited to places covered by other civil rights statutes.

Disability discrimination occurs in stores, auditoriums, and theaters, as well as doctors' and lawyers' offices. It is very important that the definitions in the ADA not be narrowed to exclude facilities which are crucial to carrying out one's daily life.

The requirement for access in new construction, like all requirements in the ADA, contains certain limitations and exemptions which are tailored to take into account the financial burdens on developers. These exemptions are provided despite the fact that, in new construction, the average cost of accessibility is less than one-half of 1 percent of the overall building cost. Often, access adds nothing at all to the overall building cost. But even so, the ADA has provided for an elevator exemption in buildings under three stories or under 3,000 square feet per story, if the building is not a health care facility or shopping center.

This exemption is intended to apply to a limited number of situations. It concludes only two-story or two-level buildings, or buildings with less than 3,000 square feet per level. Buildings with three or more stories or levels are not exempt unless they have less than 3,000 square feet per level. Basements are not to be included in this calculation. So, for example, if a new commercial building is to have a ground floor and a second floor to be occupied by stores and restaurants, but no basement, it needn't have an elevator. However, if a storage basement is included, the total of levels in the building is three, and it must have an elevator.

It is also important to note that, when the exemption does apply, it applies as an exemption for one feature only: the elevator. All other features related to accessibility must be provided on every level or story of the building.

This means that, in every new commercial building, the first floor must be fully accessible, including the entrance. One story must be designated as the first story, and include an accessible entrance.

All other floors must include access features, even if the elevator is exempted. This includes restroom accessibility and handrails on the stairs, features which are often needed by ambulatory disabled persons, even those who can climb steps to the second floor. This also includes hazard-warning provisions needed by people with visual impairments.

Another important note about this exemption is that it does not apply to one-story buildings. Since one-story buildings have no need for elevators, they must be fully accessible.

This exemption includes the important provision that the Attorney General can add occupancy types to the list of those kinds of facilities which cannot be exempted from elevators under any circumstances. This list already includes three occupancy types, delineated in the statute: shopping centers, shopping malls, and health care facilities. But the Attorney General can add others, which are found to be so compelling in their importance to the community, that they need to be accessible.

Particular attention should be paid to facilities which offer unique services or opportunities. For example, banquet rooms are often located on the second floor of restaurants or

motels, up a flight of steps. In a small town or city, the only banquet room could be inaccessible, rendering unavailable any group dinners, annual celebrations, or business luncheons to disabled persons in that town. In a situation like this, the town's brandnew two-story restaurant with upstairs banquet facilities should install an elevator.

Another important example is airports. There is generally only one airport in a city or town; no airport should be inaccessible to a person with a disability. It is expected that the Attorney General will assure that the elevator exemption does not serve to bar people with disabilities from such basic opportunities.

The requirement in the ADA for accessibility to newly constructed commercial facilities will make an enormous difference in integrating people with disabilities more thoroughly into all aspects of society. It will help fulfill the ADA's promise to extend civil rights protections to millions of disabled Americans.

One way in which many disabled persons have experienced discrimination is seating restrictions in theaters and other assembly areas. At times, overprotectiveness, misguided concerns for safety, and other myths and stereotypes have resulted in policies which limit disabled persons to seating only near exits.

What should be available to disabled persons, just as to nondisabled persons, is a variety of possible locations which are options for the disabled patron.

To achieve integrated seating in a variety of locations, there can be a few accessible spaces in the back, some in the front, and some alongside aisles, including the centermost aisle, in a row—or rows—located roughly midway back from the screen. Such placement has been a practice in some theaters for years, and poses no safety problems.

Current U.S. Government policy in Federal facilities specifically reinforces this concept. The Uniform Federal Accessibility Standards [UFAS], which have existed for several years and were developed by the Federal Government to regulate construction under the Architectural Barriers Act, explicitly requires seating in assembly areas like theaters to be in a variety of locations, and doesn't mention any restriction to the area near an exit. UFAS section 4.33.3 reads:

Wheelchair areas * * * and shall be located to provide lines of sight comparable to those for all viewing areas.

And the UFAS appendix, section A4.33.3 reads:

The location of wheelchair areas can be planned so that a variety of positions within the seating area are provided. This will allow choice in viewing and price categories.

The ADA recognizes that it is important to stop a violation of the act's access provisions before it occurs. It is a lot cheaper to make a building accessible to people with disabilities in the design stage than once the building is erected. For situations where discriminatory architectural barriers violate the ADA, the concept of anticipatory discrimination has been included.

Take the example of a new restaurant. The designers, for whatever reason, have designed a restroom which is not accessible to patron who uses a wheelchair, because it has a very narrow passageway. If the ADA did not have the anticipatory discrimination provision for just this circumstance, nothing could be done until the building is not only built but in actual operation.

On opening day, if a wheelchair-using patron tried to avail themselves of the restroom but found it to be wrongly designed, a case could be filed. If the court issued an injunction for the restaurant to provide wheelchair access to the restroom, a great deal of money might need to be spent to widen the passageway, not to mention losses from closing the facility during the period of reconstruction.

However, under the ADA as currently written, a complaint could be filed against this restaurant as soon as the design error is discovered—hopefully, as early as the blueprint stage. This is because the anticipatory discrimination clause allows for action in a situation where it is clear that the architectural barrier, when built, will preclude access by disabled persons. In this case, correcting the error could involve no more than the designer's time to redraw the passageway in an accessible fashion.

The ADA contains provisions addressing the possibility that interim accessibility regulations might be necessary, in case final regulations to be published pursuant to the ADA are delayed. These provisions provide direction to builders who might otherwise be caught with requirements to follow and no guidance as to how to carry out the ADA's mandate.

For new construction or alterations for which a State or local building permit is obtained prior to the issuance of final accessibility regulations by the Department of Justice [DOJ], and for which the construction or alteration begins within 1 year of the receipt of the permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the permit is issued will satisfy the ADA's accessibility requirements.

The exception is that if DOJ's final regulations have not been issued 1 year after the Architectural and Transportation Barriers Compliance Board [ATBCB] has issued their supplemental minimum guidelines also required in the ADA, compliance with these supplemental minimum guidelines issued by the ATBCB shall be necessary to satisfy the ADA's accessibility requirements.

Mr. STOKES. Mr. Chairman, I rise today in strong support of H.R. 2273, the Americans With Disabilities Act, which seeks to eliminate discrimination against persons with disabilities. This bill is a landmark piece of legislation. The Americans With Disabilities Act will guarantee equality of opportunity and participation in our society to the approximately 43 million disabled Americans.

The Americans With Disabilities Act [ADA] has been the subject of numerous hearings in Congress, and has been debated, modified, and approved by overwhelming bipartisan majorities in four different House committees. In fact, the ADA has passed these four committees by a combined vote of 152 to 11. At each stage in the legislative process, the questions and concerns of the business community have been taken into consideration, and the language of the bill amended to address these concerns. The result of these hearings is that we now have before us a bill that takes strong action to eliminate barriers to the full participation of the disabled in our society, without placing any undue burdens on businesses to accommodate the disabled.

Mr. Chairman, this bill also has the strong backing of the President, who has said, "ADA will form the foundation for policies and programs that can create opportunities for Americans with disabilities to find and hold jobs, and to enjoy the income and satisfaction that participation in society brings to us all."

Discrimination is a daily experience for individuals who have disabilities. It is time for our Nation to address the reality that Americans with disabilities are relegated to second-class citizenship. This bill will afford civil rights protections to all individuals with disabilities. The ADA states that people with disabilities are entitled to the same rights that all other Americans take for granted—the right to communicate, the right to work, the right to go wherever they wish. In short, the ADA grants to disabled Americans the right not to be left out anymore.

Passage of the Americans With Disabilities Act will increase the acceptance, dignity, and full participation of citizens with disabilities. By breaking down barriers in stores and offices, it would enable more disabled people to purchase goods and services. The act would free hundreds of thousands of citizens who are virtually prisoners in their homes because of inaccessible transportation and public accommodations.

Mr. Chairman, it is appalling that under the present Federal law, it is legal for a restaurant to refuse to serve a mentally retarded person, for a theater to deny admission to a person with cerebral palsy, for a dry cleaner to refuse service to someone who is deaf or blind. Today, we have the chance to correct this injustice by passing the Americans With Disabilities Act. I strongly urge my colleagues to join me in supporting the bill on final passage.

Mr. BORSKI. Mr. Chairman, I rise in strong support of H.R. 2273, the Americans With Disabilities Act.

As a member of the Public Works and Transportation Committee, I am particularly pleased with the bill's sections on public transportation.

The Americans With Disabilities Act represents a major breakthrough in ensuring that citizens who have been robbed of their mobility by disabilities or accidents can get to work, can pursue their interests, and broaden their lives with the access our Nation's public transportation facilities offer.

The acts' provisions on public transit accessibility will help greatly to break down the barriers that disabled Americans confront every day in their efforts to be self-reliant and productive members of society.

Mr. Speaker, giving access to America and everything it offers is the primary purpose of our transportation system.

Extending that access to every American is a major purpose of the Americans With Disabilities Act. ADA is first and foremost a basic civil rights protection.

Enactment of this very important legislation will help assure that disabled Americans have

access to America's buses, trains and other transit services.

The time for delay is over. I urge my colleagues to support H.R. 2273, and ensure that Americans with disabilities will be able to live full lives as workers and as citizens.

Mr. BONIOR. Mr. Chairman, I am honored to be an original cosponsor of the Americans With Disabilities Act and am pleased that we overwhelmingly passed this landmark legislation earlier today.

This is a proud day for the Nation when Congress finally extends to the disabled community the full rights of citizenship. Millions of people throughout the country have worked long and hard for this legislation. I want to take this opportunity congratulate all the people—especially those in the disabled community—who brought us to this historic moment.

For too long, our society has put up barriers to the disabled. Whether through fear of the unknown or ignorance of our own handicaps, we deny jobs or equal opportunities to those who appear to be different from us. More than two-thirds of our fellow citizens with disabilities who are of working age are unemployed. The vast majority want to work. To deny them the opportunity is intolerable.

There is not a disabled American alive today who has not experienced some type of discrimination. Discrimination erodes human aspirations and the human spirit. Not only does it destroy the self-worth of individuals, it undermines the economic and democratic integrity of our society. And this, too, is intolerable.

Today, after great effort by many distinguished Americans we have the opportunity to help right these wrongs. The Americans With Disabilities Act will extend the protections of the Civil Rights Act of 1964 to provide clear, strong, consistent, and enforceable standards addressing discrimination on the basis of disability.

This is a necessary and affirming step for all of us, both currently able-bodied and disabled. With this legislation, we can help remove this barrier to both an individual's and our entire country's potential for human and economic growth.

Mr. Chairman, I would also like at this time to discuss title IV of the ADA which is of extreme significance to the deaf community.

More than 55 years ago, Congress passed the Communications Act of 1934, requiring telephone companies to provide universal telephone service for all Americans. Despite this, in 1990, millions of deaf, hard of hearing and speech impaired citizens still do not have full accessibility to our Nation's telephone system.

Title IV will ensure full accessibility by requiring all common carriers to provide telephone relay services for both local and long distance calls within 3 years after enactment of the ADA. A relay service enables individuals who use telecommunication devices for the deaf [TDD's] to carry on telephone conversations with persons who use voice telephones.

The relay systems that exist in a few States fall short of meeting the basic telephone needs of individuals with hearing and speech impairments. These systems are often underfunded and understaffed. They impose restrictions on the number, length, and types of calls that can be relayed in their States.

Title IV requires relay services to be available 24 hours a day, 7 days a week, without restrictions on the type, length, or number of calls made by any relay service. The service provided must be functionally equivalent to that available to individuals without hearing impairments. This means that the rate that relayed calls are blocked should be no greater than the blockage rate for all telephone users. It also means that relay centers must be staffed by highly qualified operators who are skilled in typing, spelling and grammar. Operators must also be familiar with American sign language and other aspects of deaf culture that might have a bearing on the proper relaying of calls.

Relay systems must be able to accept relayed calls originating from TDDs that use either the ASCII or Baudot formats. Individuals, both hearing and deaf, must be able to easily access information about relay telephone numbers. In any given State, an individual must be able to find out the local relay number by calling a toll-free number, by checking local telephone directories, or by calling telephone operator information numbers.

The ADA provides telephone companies ample time for compliance. The bill requires that relay operations begin within three years after enactment. The technology needed to begin relay operations already exists. At House hearings, AT&T testified they could begin operations of a nationwide relay systems within 1 year. It is our intent that relay services begin as soon as possible.

The nationwide relay system envisioned by the ADA will dramatically improve the lives of hearing impaired and speech impaired Americans. Finally, these citizens will achieve a level of independence that will enable them to fully participate in society.

The Deaf President Now movement at Gallaudet University has made us all vividly aware of the aspirations for equal opportunity for qualified disabled Americans. I am proud to say that King Jordan, president of Gallaudet University, has shown by his example that in his words, "Deaf people can do anything but hear." But he, like other disabled Americans, sometimes needs a reasonable accommodation, such as a qualified interpreter, to perform on a level playing field. The ADA will finally give all disabled Americans the equal opportunity to compete and participate in the mainstream of American life.

Mr. CLEMENT. Mr. Chairman, I am pleased to see the Americans With Disabilities Act pass the House and I would like to insert some additional comments on some of the bill's provisions for the benefit of my colleagues.

TRANSPORTATION—USED AND REMANUFACTURED VEHICLES; HISTORIC VEHICLES

In addition to new vehicles, the ADA also poses requirements relating to used and to remanufactured vehicles.

Cities purchasing used vehicles must make a demonstrated good faith effort to ensure accessible used vehicles are bought. This provision is intended to provide some relief to small cities and rural regions which often buy used buses. If accessible vehicles cannot be found, inaccessible ones can be purchased.

The demonstrated good faith effort requirement means that a nationwide search must be made, multiple vendors contacted, and advertisements placed. Also, transit trade associations can be contacted to look for accessible used vehicles.

As time goes by and more buses are accessible due to the ADA, more of the used vehicles on the market will be accessible, and it should become progressively easier for transit authorities to find used accessible vehicles to purchase.

When buses are remanufactured, or remanufactured buses are leased, the vehicle shall be accessible to the maximum extent feasible. This applies to vehicles where the remanufacturing extends the vehicle's life by five years or more.

There is an exception for vehicles of historic character. If any portion of a transit system is included on the National Register of Historic Places, vehicles remanufactured for the system only must be accessible to the extent that making them accessible does not significantly alter their historic character. However, whatever accessibility features are consistent with the vehicles' historic character must be made.

PARATRANSIT—CURRENT SERVICE PROVIDERS ENCOURAGED TO CONTINUE

The pattern of paratransit service provision varies widely from city to city. There are many different kinds of organizations providing these services, with funding from private organizations, State and local government, Federal grants, and other sources. Those organizations which are private, and are not government transit entities operating fixed-route operations, are not directly governed by this title.

It is not the intent of the ADA to in any way reduce the paratransit services currently provided by a variety of organizations. Organizations are encouraged to continue, and to exceed the minimum requirements posed by the ADA whenever possible.

TRANSPORTATION—PARATRANSIT ELIGIBILITY

The transportation provisions of the ADA require that fixed route systems become accessible to people with disabilities over time, mainly through the requirement that newly purchased equipment be accessible. In addition, fixed route providers are to ensure the provision of supplementary paratransit services to persons who can't independently use the fixed route services.

The requirement for supplementary paratransit recognizes that there will always be some disabled persons who are unable to navigate the fixed route systems on their own. The reasons for this will vary widely. Some blind individuals who haven't received appropriate mobility training, or are traveling in a new area, or for a variety of other reasons, need paratransit. Some people with mental disabilities who need assistance getting where they're going, may need paratransit. Persons whose disabilities cause fatigue or those who cannot tolerate outdoor exposure may be completely unable to proceed on their own to bus stops, or from bus stops to their final distination, and need door-to-door service. Some persons who have uncontrolled convulsive

seizures will need specialized paratransit service. Some persons with AIDS may be too ill to negotiate the bus independently.

For these circumstances, publicly funded authorities which are charged with providing transportation to the general public, must ensure the provision of alternate paratransit service to those members of the general public who cannot use the mainline system. These persons are to be eligible for paratransit which is provided pursuant to the ADA.

Another category of eligible paratransit recipients will be persons traveling to places where the transit district has mainline bus routes but where no accessible buses are running within a reasonable period of their travel time. Logically, the paratransit service should also be extended to persons who cannot ride the fixed route service because lifts are disfunctional due to poor maintenance.

At least one associate may ride with any recipient of paratransit services. Paratransit operators are encouraged to allow additional riders if they are associated with a disabled individual and need to travel with him or her.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TRAXLER) having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, pursuant to House Resolution 394, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT OFFERED BY MR. DE LAY

Mr. DELAY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DELAY. Mr. Speaker, in its present form, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DELAY moves to recommit the bill, H.R. 2273, to the Committee on Rules with instructions to report the same to the House forthwith with the following amendment:

In section 104(c), add at the end the following new paragraph (and make appropriate conforming changes at the end of paragraphs (4) and (5));

(6) may take into consideration an individual's history of drug addiction or alcoholism, the period of time the individual has been free of drugs or alcohol, and whether the individual has successfully completed treatment for such condition before assigning or continuing to assign such individual to a safety sensitive position.

In title V, insert after section 509 the following new section (and redesignate subsequent sections, and conform the table of contents, accordingly):

SEC. 509A. EXECUTIVE AND JUDICIAL INCLUSION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act or of law, the purpose of this Act shall, subject to subsections (b) and (c), apply in their entirety to the executive and judicial branches of the Federal Government.

(b) EXECUTIVE BRANCH.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of the executive branch of the Federal Government.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY EXECUTIVE ORDER.—The President shall, by executive order, establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The President shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(c) JUDICIAL BRANCH.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraphs (2) and (3), apply with respect to the conduct of the judicial branch of the Federal Government.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY ADMINISTRATIVE OFFICE OF UNITED STATES COURTS.—The Director of the Administrative Office of United States Courts shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively, after approval in accordance with paragraph (3).

(3) APPROVAL BY JUDICIAL CONFERENCE.—For purposes of paragraph (2), the Director of the Administrative Office of the United States Courts shall submit proposed remedies and procedures to the Judicial Conference of the United States. The remedies and procedures shall be effective upon the approval of the Judicial Conference.

(4) REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

Mr. DELAY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DELAY] will be recognized for 5 minutes, and the gentleman from Maryland [Mr. HOYER] will be recognized for 5 minutes in opposition.

Mr. DELAY. Mr. Speaker, I offer this motion to recommit, and it has two sections in it. The first section deals with drug addiction and alcoholism and in that it allows the employer a little more discretion in taking into consideration the record of the employee as to how he has become rehabilitated in his drug habit or alcoholism.

What this amendment does is give employers a little more discretion in looking at the record of those drug addicts and alcoholics that may have been rehabilitated, and take a period of time as far as proving whether they have been rehabilitated or not, especially in safety-sensitive areas.

□ 1420

The other part of my motion deals with the judiciary branch and the executive branch of our Government and expands—expands—the remedies to those that are disabled, that are not covered, in my opinion, in the Civil Rights Act of 1964.

Mr. Speaker, I yield to the gentleman from Washington [Mr. CHANDLER] to explain the drug section of my motion.

Mr. CHANDLER. Mr. Speaker, I want the Members of the House to have the opportunity to answer a very important question. Do Members want to pass legislation that would require an employer, we will say it is a construction company, to immediately return to the job of crane operator or dump truck driver, someone who has been perhaps three or four times through drug rehabilitation treatment, or even alcohol? Do Members want to require that?

Now, statistically, I can tell Members we are not dealing with black and white. There is a broad area of gray. About two-thirds of the people who get off drugs for a while go back to using drugs again. Do Members want to run the risk of giving an employer no flexibility whatsoever to deal with that?

This amendment was carefully crafted to allow an employer to take into consideration how long has the individual been free of drugs or alcohol? Did they go through treatment? Are they making progress? This is not an attempt to discriminate, but to just allow some common sense to be applied in cases where we know people have caused serious injury in the past, and an employer desperately needs the protection of some flexibility to deal with this kind of eventuality.

If we do adopt this amendment, I think the bill would be far more defensible than it is without it. There is even some question about whether a

schoolbus driver is involved in this. No, an airline pilot is not, because that comes under Federal regulations. But rest most assured that a crane operator, a dump truck driver, someone who drives pizzas from the pizza-to-home delivery service, those kinds of jobs would be affected by my amendment.

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

Mr. CHANDLER. Mr. Speaker, I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, just to clarify, I want to advise the gentleman that the schoolbus drivers that the gentleman just mentioned also are covered by the DOT regulations.

Mr. DELAY. Mr. Speaker, I yield myself the balance of my time.

Let me just say as far as the schoolbus driver is concerned, if they are an alcoholic and were fired for their alcoholism, went to a rehabilitation program, the school would have to rehire them immediately without any sort of proof that they had been successfully participating in the program.

The second part of my motion, Mr. Speaker, is No. 1, the judiciary is not covered under the ADA bill. Under the motion we cover the judiciary and give them a procedure by which they can comply with the bill. As Members well know, Congress is covered under the ADA bill. We also apply the ADA bill to the executive branch and give them procedures by which they can comply with the bill.

I might point out, by the way, that under the present remedies of the Rehabilitation Act of 1973, the only remedy to the Federal Government is the termination of Federal funds. If someone goes to the Social Security office, is discriminated against, is discriminated against and brings suit, the only remedy that the executive branch can bring is terminated funds for the Social Security office.

What we are simply doing is expanding the ADA bill to the judiciary branch and the executive branch, as it is to others, as we include it into this bill. Second, I just will finish with the point that if Hazelwood had been found to be an alcoholic, he would have to be rehired today to run the *Valdez*, if that job was open.

I am telling Members of the House that all we are doing is expanding, for safety-sensitive jobs, the opportunity for an employer, and in some cases it can be in temporary employment, just temporary employment, to see that they are receiving the benefits and rehabilitation and expanding the ADA to the executive branch and the judiciary branch.

Mr. EDWARDS of California. Mr. Speaker, I rise in opposition to the motion.

The bill has been carefully drawn with regard to drug and alcohol provisions, and we are satisfied that the provisions regarding drugs and alcohol are taken care of adequately in the bill. The direct threat is the test, and if any person poses a direct threat to the health or safety of others, then that person does not have to be hired.

Now, the second part of the bill, of the suggestion in the motion to recommit would include the judiciary and the executive branch, they are already covered by the Rehabilitation Act of 1973. This would be confusing and unnecessary to include them.

I urge a "no" vote on the motion to recommit.

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

Mr. EDWARDS of California. I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise in strong opposition to the motion to recommit and would urge the body to reject this motion.

First of all, let me make it very clear that I think all Members know the use of drugs, the illegal use of drugs is not, not protected by the ADA. Any person on the job that uses illegal drugs can be fired without reference to ADA. The use of alcohol on the job is not covered by any protections in the ADA. We made that very clear and careful. It is not covered, so that there is no fear that any Member will have that we are imposing on an employer, either someone who is abusing alcohol or abusing illegal drugs or any other drugs, for that matter, that impacts on their performance.

Second, and let me finish with this if I may, we have heard during the course of this debate some lamentations from the other side of the aisle, particularly some from this side, about carefully crafting amendments so that we do not open it for lawsuits. Listen to this language, "not of your judiciary branch and executive branch, which is now covered under the Rehabilitation Act of 1973."

□ 1430

With respect to the specifics of the amendment, by adding the addition of a paragraph 6 to section 104(c), we may take into consideration an individual's history of drug addiction or alcoholism, a history of 15 years ago, as our distinguished sponsor of the amendment has, and he is certainly very able and ought not to be discriminated against. He ought to be protected against arbitrary and capricious discrimination.

It then goes on to say, "The period of time the individual has been free of drugs or alcohol." There is no standard for business in there. There is no telling them that 1 year is sufficient or 5 years is sufficient or 10 years is sufficient. I could go through each part of this amendment. There is no specificity, notwithstanding the fact the sponsors of this have said we ought to specify.

In fact, what it does is subject those who may have been alcoholics at some point in time or those who may have used drugs some time ago to discrimination. That is not what we want to do.

This bill is very carefully crafted from the Rehabilitation Act. The President supports the bill in its present form and has said this amendment is not necessary.

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

Mr. EDWARDS of California. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, would the gentleman from Maryland agree that this is a drug vote?

Mr. HOYER. Absolutely not.

Mr. DELAY. That because it obtains to the executive branch and the judiciary branch——

Mr. HOYER. Mr. Speaker, reclaiming our time and if the gentleman will yield further, in answer to the gentleman's question, I would specifically reject the premise that this is a drug vote. This is a vote with respect to those who have been rehabilitated.

Mr. DELAY. Then, Mr. Speaker, will the gentleman answer this question? Would he explain the remedies under the Rehabilitation Act of 1973? There are no remedies in that act as they apply to the executive branch and the judiciary branch.

Mr. HOYER. I am sure the executive is going to carry out the act and is in fact carrying it out.

Mr. DELAY. I refer to the law, and it says to refer to title 6 of the Civil Rights Act of 1964, which states that the only remedy is to terminate Federal funds. The ADA bill has more remedies in it than the Rehabilitation Act of 1973. All we are doing is expanding the remedies offered to the disabled community.

Mr. HOYER. When you say, terminate Federal funds——

Mr. DELAY. I mean the executive branch and the judiciary branch.

Mr. HOYER. Reclaiming our time, just to clarify this for everybody's understanding, the gentleman presumably is referring to the executive and the judiciary to which he spoke. Obviously we are not going to cut off funds to the judiciary or the executive for a violation. That is not the remedy. The gentleman is incorrect on that.

Mr. DELAY. So there is no remedy?

Mr. HOYER. Mr. Speaker, I would urge a no vote on the motion to recommit.

The SPEAKER pro tempore (Mr. TRAXLER). The time of the gentleman from California [Mr. EDWARDS] has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DELAY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the passage of the bill.

The vote was taken by electronic device, and there were—ayes 143, noes 280, not voting 9, as follows:

[Roll No. 122]

AYES—143

Archer	Hefley	Porter
Armey	Herger	Quillen
Baker	Hiler	Regula
Ballenger	Holloway	Rhodes
Bartlett	Hopkins	Ritter
Barton	Houghton	Roberts
Bateman	Hubbard	Robinson
Bentley	Hunter	Rogers
Bereuter	Hyde	Rohrabacher
Bilirakis	Inhofe	Ros-Lehtinen
Broomfield	Ireland	Roth
Brown (CO)	James	Roukema
Bunning	Johnson (CT)	Schaefer
Burton	Johnson (SD)	Schiff
Callahan	Kolbe	Schuette
Campbell (CA)	Kyl	Schulze
Chandler	Lagomarsino	Sensenbrenner
Coble	Leach (IA)	Shaw
Coleman (MO)	Lewis (CA)	Shumway
Combest	Lewis (FL)	Shuster
Coughlin	Lightfoot	Skeen
Cox	Lipinski	Slaughter (VA)
Crane	Livingston	Smith (NE)
Dannemeyer	Lowery (CA)	Smith (TX)
DeLay	Madigan	Smith, Denny (OR)
DeWine	Marlenee	Smith, Robert (NH)
Dickinson	Martin (IL)	Smith, Robert (OR)
Dornan (CA)	Martin (NY)	Solomon
Douglas	McCandless	Spence
Dreier	McCollum	Stangeland
Duncan	McCrery	Stearns
Edwards (OK)	McEwen	Stenholm
Emerson	McMillan (NC)	Stump
Fawell	Meyers	Sundquist
Fields	Michel	Tauke
Frenzel	Miller (OH)	Thomas (WY)
Gallegly	Miller (WA)	Upton
Gekas	Molinari	Vander Jagt
Gibbons	Moorhead	Vucanovich
Gingrich	Morrison (WA)	Walker
Goss	Murphy	Weber
Gradison	Myers	Whittaker
Grandy	Nielson	Wylie
Grant	Olin	Young (AK)
Gunderson	Oxley	Young (FL)
Hall (TX)	Packard	
Hancock	Pashayan	
Hansen	Paxon	
Hastert	Petri	

NOES—280

Ackerman	Bilbray	Buechner
Anderson	Bliley	Bustamante
Andrews	Boehlert	Byron
Annunzio	Boggs	Campbell (CO)
Anthony	Bonior	Cardin
Applegate	Borski	Carper
Aspin	Bosco	Carr
Atkins	Boucher	Chapman
AuCoin	Boxer	Clarke
Barnard	Brennan	Clay
Bates	Brooks	Clement
Beilenson	Browder	Clinger
Bennett	Brown (CA)	Coleman (TX)
Berman	Bruce	Collins
Bevill	Bryant	Condit
Conte	Kasich	Ray
Conyers	Kastenmeier	Richardson
Cooper	Kennedy	Ridge
Costello	Kennelly	Rinaldo
Courter	Kildee	Roe
Coyne	Kleczka	Rose
Crockett	Kolter	Rostenkowski
Darden	Kostmayer	Rowland (CT)
Davis	LaFalce	Rowland (GA)
de la Garza	Lancaster	Roybal
DeFazio	Lantos	Russo
Dellums	Laughlin	Sabo
Derrick	Leath (TX)	Saiki
Dicks	Lehman (CA)	Sangmeister
Dingell	Lehman (FL)	Sarpalius
Dixon	Lent	Savage
Donnelly	Levin (MI)	Sawyer
Dorgan (ND)	Levine (CA)	Saxton
Downey	Lewis (GA)	Scheuer
Durbin	Lloyd	Schneider
Dwyer	Long	Schroeder
Dymally	Lowey (NY)	Schumer
Dyson	Luken, Thomas	Serrano
Early	Machtley	Sharp
Eckart	Manton	Shays
Edwards (CA)	Markey	Sikorski
Engel	Martinez	Sisisky
English	Matsui	Skaggs
Erdreich	Mavroules	Skelton
Espy	Mazzoli	Slattery
Evans	McCloskey	Slaughter (NY)
Fascell	McCurdy	Smith (FL)
Fazio	McDade	Smith (IA)
Feighan	McDermott	Smith (NJ)
Fish	McGrath	Smith (VT)
Flake	McHugh	Snowe
Foglietta	McMillen (MD)	Solarz
Ford (MI)	McNulty	Spratt
Frank	Mfume	Staggers
Frost	Miller (CA)	Stallings
Gallo	Mineta	Stark
Gaydos	Moakley	Stokes
Gejdenson	Mollohan	Studds
Gephardt	Montgomery	Swift
Geren	Moody	Synar
Gillmor	Morella	Tallon
Gilman	Morrison (CT)	Tanner
Glickman	Mrazek	Tauzin
Gonzalez	Murtha	Taylor
Goodling	Nagle	Thomas (GA)
Gordon	Natcher	Torres
Gray	Neal (MA)	Torricelli
Green	Neal (NC)	Towns
Guarini	Nowak	Traficant
Hall (OH)	Oakar	Traxler
Hamilton	Oberstar	Udall
Harris	Obey	Unsoeld
Hatcher	Ortiz	Valentine
Hawkins	Owens (NY)	Vento
Hayes (IL)	Owens (UT)	Visclosky
Hayes (LA)	Pallone	Volkmer
Hefner	Panetta	Walgren
Henry	Parker	Walsh
Hertel	Parris	Washington
Hoagland	Patterson	Waxman
Hochbrueckner	Payne (NJ)	Weiss
Horton	Payne (VA)	Weldon
Hoyer	Pease	Wheat
Huckaby	Pelosi	Whitten
Hughes	Penny	Williams
Hutto	Perkins	Wilson
Jacobs	Pickett	Wise
Jenkins	Pickle	Wolf
Johnston	Poshard	Wolpe
Jones (GA)	Price	Wyden
Jones (NC)	Pursell	Yates
Jontz	Rahall	Yatron
Kanjorski	Rangel	
Kaptur	Ravenel	

NOT VOTING—9

Alexander	Ford (TN)	Nelson
Craig	Hammerschmidt	Thomas (CA)
Flippo	Lukens, Donald	Watkins

□ 1453

The Clerk announced the following pairs:

On this vote:

Mr. Craig for, with Mr. Nelson of Florida against.

Mr. Thomas of California for, with Mr. Ford of Tennessee against.

Mr. BUECHNER changed his vote from "aye" to "no."

Mr. HALL of Texas and Ms. ROS-LEHTINEN changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HOYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 403, noes 20, not voting 9, as follows:

[Roll No. 123]

AYES—403

Ackerman	Conte	Gillmor
Anderson	Conyers	Gilman
Andrews	Costello	Gingrich
Annunzio	Coughlin	Glickman
Anthony	Courter	Gonzalez
Applegate	Cox	Goodling
Aspin	Coyne	Gordon
Atkins	Crockett	Goss
AuCoin	Darden	Gradison
Baker	Davis	Grandy
Ballenger	de la Garza	Grant
Barnard	DeFazio	Gray
Bartlett	Dellums	Green
Bates	Derrick	Guarini
Beilenson	DeWine	Gunderson
Bennett	Dickinson	Hall (OH)
Bentley	Dicks	Hall (TX)
Bereuter	Dingell	Hamilton
Berman	Dixon	Hansen
Bevill	Donnelly	Harris
Bilbray	Dorgan (ND)	Hastert
Bilirakis	Dornan (CA)	Hatcher
Bliley	Douglas	Hawkins
Boehlert	Downey	Hayes (IL)
Boggs	Dreier	Hayes (LA)
Bonior	Duncan	Hefley
Borski	Durbin	Hefner
Bosco	Dwyer	Henry
Boucher	Dymally	Hertel
Boxer	Dyson	Hiler
Brennan	Early	Hoagland
Brooks	Eckart	Hochbrueckner
Broomfield	Edwards (CA)	Holloway
Browder	Edwards (OK)	Hopkins
Brown (CA)	Emerson	Horton
Brown (CO)	Engel	Houghton
Bruce	English	Hoyer
Bryant	Erdreich	Hubbard
Buechner	Espy	Huckaby
Bunning	Evans	Hughes
Bustamante	Fascell	Hunter
Byron	Fawell	Hutto
Callahan	Fazio	Hyde
Campbell (CA)	Feighan	Inhofe
Campbell (CO)	Fields	Ireland
Cardin	Fish	Jacobs
Carper	Flake	James
Carr	Foglietta	Jenkins
Chandler	Ford (MI)	Johnson (CT)
Chapman	Frank	Johnson (SD)
Clarke	Frenzel	Johnston
Clay	Frost	Jones (GA)
Clement	Gallegly	Jones (NC)
Clinger	Gallo	Jontz
Coble	Gaydos	Kanjorski
Coleman (MO)	Gejdenson	Kaptur
Coleman (TX)	Gekas	Kasich
Collins	Gephardt	Kastenmeier
Combest	Geren	Kennedy
Condit	Gibbons	Kennelly

Kildee	Oakar	Skelton
Kleczka	Oberstar	Slattery
Kolbe	Obey	Slaughter (NY)
Kolter	Ortiz	Slaughter (VA)
Kostmayer	Owens (NY)	Smith (FL)
Kyl	Owens (UT)	Smith (IA)
LaFalce	Oxley	Smith (NE)
Lagomarsino	Pallone	Smith (NJ)
Lancaster	Panetta	Smith (TX)
Lantos	Parker	Smith (VT)
Laughlin	Parris	Smith, Denny (OR)
Leach (IA)	Pashayan	Smith, Robert (NH)
Leath (TX)	Patterson	Smith, Robert (OR)
Lehman (CA)	Paxon	Snowe
Lehman (FL)	Payne (NJ)	Solarz
Lent	Payne (VA)	Solomon
Levin (MI)	Pease	Spence
Levine (CA)	Pelosi	Spratt
Lewis (CA)	Penny	Staggers
Lewis (FL)	Perkins	Stallings
Lewis (GA)	Petri	Stangeland
Lipinski	Pickett	Stark
Livingston	Pickle	Stearns
Lloyd	Porter	Stokes
Long	Poshard	Studds
Lowery (CA)	Price	Sundquist
Lowey (NY)	Pursell	Swift
Luken, Thomas	Quillen	Synar
Machtley	Rahall	Tallon
Madigan	Rangel	Tanner
Manton	Ravenel	Tauzin
Markey	Ray	Taylor
Martin (IL)	Regula	Thomas (GA)
Martin (NY)	Rhodes	Thomas (WY)
Martinez	Richardson	Torres
Matsui	Ridge	Torricelli
Mavroules	Rinaldo	Towns
Mazzoli	Ritter	Traficant
McCandless	Roberts	Traxler
McCloskey	Robinson	Udall
McCollum	Roe	Unsoeld
McCrery	Rogers	Upton
McCurdy	Rohrabacher	Valentine
McDade	Ros-Lehtinen	Vander Jagt
McDermott	Rose	Vento
McEwen	Rostenkowski	Visclosky
McGrath	Roth	Volkmer
McHugh	Roukema	Vucanovich
McMillan (NC)	Rowland (CT)	Walgren
McMillen (MD)	Rowland (GA)	Walker
McNulty	Roybal	Walsh
Meyers	Russo	Washington
Mfume	Sabo	Waxman
Michel	Saiki	Weber
Miller (CA)	Sangmeister	Weiss
Miller (OH)	Sarpalius	Weldon
Miller (WA)	Savage	Wheat
Mineta	Sawyer	Whittaker
Moakley	Saxton	Whitten
Molinari	Schaefer	Williams
Mollohan	Scheuer	Wilson
Montgomery	Schiff	Wise
Moody	Schneider	Wolf
Moorhead	Schroeder	Wolpe
Morella	Schuette	Wyden
Morrison (CT)	Schulze	Wylie
Morrison (WA)	Schumer	Yates
Mrazek	Sensenbrenner	Yatron
Murphy	Serrano	Young (AK)
Murtha	Sharp	Young (FL)
Myers	Shaw	
Nagle	Shays	
Natcher	Sikorski	
Neal (MA)	Sisisky	
Neal (NC)	Skaggs	
Nowak	Skeen	

NOES—20

Archer	Dannemeyer	Olin
Armey	DeLay	Packard
Barton	Hancock	Shumway
Bateman	Herger	Shuster
Burton	Lightfoot	Stenholm
Cooper	Marlenee	Stump
Crane	Nielson	

NOT VOTING—9

Alexander	Ford (TN)	Nelson
Craig	Hammerschmidt	Thomas (CA)
Flippo	Lukens, Donald	Watkins

□ 1500

The Clerk announced the following pair:

On this vote:

Mr. Nelson of Florida for, with Mr. Craig against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DELLUMS. Mr. Speaker, I rise today to express my sincere joy at the final passage of H.R. 2273, the Americans With Disabilities Act. I feel deeply that in voting for this legislation, Members of this body have acted to enfranchise an entire class of Americans whose rights and liberties are finally on a par with every other citizen.

It is incredible that action on this vitally important civil rights issue has evaded us for so long. The story of our Nation's disparate treatment of disabled individuals is a sad conclusion. As a black American, I am especially proud to stand here as part of the coalition that has brought equal standing for the disabled in the eyes of the law. All minority Americans have shared the suffering of "separate but equal," and we rejoice collectively when that unjust standard can no longer be legally applied.

It is at moments like these, Mr. Speaker, when I am proud to be a Member of this body. We must remember that we are empowered with a special responsibility by the 14th amendment to the Constitution to ensure that every citizen, not just those of particular ethnic groups, not just those who arguably are "able-bodied," not just those who own property—but every citizen shall enjoy the equal protection of the laws.

Indeed, as the Supreme Court has noted:

It is fundamental that in no organ of government, state or federal, does there repose a more comprehensive remedial power than in the Congress, expressly charged by the Constitution with competence and authority to enforce equal protection guarantees. (448 U.S. at 483)

Our action in this area is therefore long overdue. The history of different, separate, and unequal treatment of persons with disabilities, especially those with severe disabilities, could not be clearer. That history is in fact a stark reminder of the prejudice and misunderstanding that has characterized the treatment of minority citizens. This disparate treatment establishes an abundant factual predicate for the relief granted by H.R. 2273. The Americans With Disabilities Act is a plenary civil rights statute designed to halt all practices that segregate persons with disabilities and those which treat them inferior or differently. By enacting the ADA, we are making a conscious decision to reverse a sad legacy of segregation and degradation.

The significance, historic and legal, of our decision to establish disability as a basis for civil rights protection cannot be overstated. We have been moved by the continuing destructive effect of segregation, and we are acting now to reverse those practices, root and branch, and to eliminate their legacy. In short, what we are saying is that a severe, lifelong disability may be handicapping, but more handicapping has been the practice of congregating services for persons with disabilities in settings different or separate from those in which the rest of us are provided those services.

Through the various hearings we have held in this body, not only in connection with the ADA, but also in connection with the Rehabilitation Act, the Education of the Handicapped Act, and the Developmental Disabilities Act, we have come to a knowledge of the capabilities and prospects for persons with disabilities entirely different from that which underlies the historic legacy and that continues today still to be boldly offered in justification of services that are separate or different. We have found that persons with severe disabilities, as a matter of fact, can live and work productively in the same settings in which their neighbors live and work.

Which brings us, Mr. Speaker, to what I view as the highest and best purpose for which this body can convene itself—to protect the fundamental rights and liberties of our citizens and to enact those measures necessary to guarantee their equal treatment under law. Today we have accomplished that purpose.

Mr. HOYER. Mr. Chairman, H.R. 2273, the Americans With Disabilities Act, which is before the House today, is a bill which reflects an extensive process of deliberation and refinement. The bill was referred to four committees in the House of Representatives; the Education and Labor Committee; the Committee on Public Works and Transportation; the Energy and Commerce Committee; and the Committee on the Judiciary. A number of changes that were made by the Senate to the original ADA were adopted by the House committees. Then, in each of the House committees, there was extensive discussion and work on the provisions under the particular jurisdiction of that committee. The bill before the House today is an amalgam of the four bills that were reported by committee. On May 14, I introduced H.R. 4807, cosponsored by the four committee chairs and ranking members, which is a clean combination of the four bills. The rule which accompanied H.R. 2273 made in order the text of an amendment in the nature of a substitute consisting of the text printed in part one of the report accompanying the rule. That text is H.R. 4807, plus some technical corrections and language concerning congressional coverage.

I was privileged to be a part of the extensive work on this bill at all of its various stages in the House of Representatives. I believe that the process this bill has undergone has resulted in a strong act that sets forth clear, enforceable guidelines for businesses, employers, transportation providers and operators of telephone services across this country regarding the prohibition of discrimination on the basis of disability.

I would like to describe, therefore, the provisions of this bill, as I view them, as it now appears before the House and to note, where appropriate, changes that were made during the committee process and changes that were made in order to merge the four bills.

DESCRIPTION

SECTION 2: FINDINGS AND PURPOSES

As noted, the bill sets forth the findings and purposes of the act. These have not changed

since the original introduction of the bill. In fact, unfortunately, the findings that Congress made during the extensive hearings held on this bill, have not changed for generations. People with disabilities have encountered various forms of discrimination—from outright exclusion to overprotective rules to segregation due to attitudinal, architectural, transportation, and communication barriers. People with disabilities have experienced a history of unequal treatment and have formed insular groups, segregated from the rest of society. In addition, people with disabilities have lacked political power. For this reason, it is 26 years after the 1964 Civil Rights Act, that the ADA—the first comprehensive piece of civil rights legislation for persons with disabilities—is finally before us today.

The purpose of this bill, as set forth in section 2(b), is to provide a clear and comprehensive mandate for the elimination of discrimination against people with disabilities, to provide clear standards addressing discrimination and to ensure that the Federal Government plays a central role in enforcing these standards on behalf of people with disabilities through the issuance of clear and effective regulations and through strong administrative enforcement where provided by the act.

Section 2(b) of the bill also notes that Congress—in passing this bill—is invoking the sweep of its congressional authority, including the power to enforce the 14th amendment and the power to regulate commerce. Section 5 of the 14th amendment gives Congress the power to enforce that amendment through appropriate legislation. Congress has authority under this section to prohibit discrimination by State and local governments, see, for example, *Katzenbach* v. *Morgan,* 384 U.S. 641 (1966), and to prohibit discrimination in nongovernmental activities that has resulted from societywide discrimination, see, for example, *Heart of Atlanta Motel* v. *United States,* 379 U.S. 241, 279–286 (1964) Douglas, J., concurring; 379 U.S., at 291–93 (Goldberg, J., concurring).

Congress also, of course, has broad authority to pass antidiscrimination laws under the commerce clause, article I, section 8 of the Constitution. See, for example, *Heart of Atlanta Motel* v. *United States,* 379 U.S. 241 (1964); *Katzenbach* v. *McClung,* 379 U.S. (1964); *EEOC* v. *Wyoming,* 460 U.S. 226 (1983). The extensive hearings on the ADA amply demonstrate how discrimination against people with disabilities has made it difficult for them to participate in the commerical life of this country. The Harris polls, cited in a number of the committee hearings, set forth clearly the myriad ways in which people with disabilities have been precluded, through various forms of discrimination, from using public accommodations, from traveling, and from gaining employment. See Louis Harris and Associates, "The ICD Survey of Disabled Americans: Bringing Disabled Americans Into the Mainstream" (1986); "Implications for Federal Policy for the 1986 Harris Survey of Americans With Disabilities" (1988).

SECTION 3: DEFINITIONS

Section 3 of the bill includes definitions of "auxiliary aids and services," "disability," and "State." These are terms that appear in more than one title of the bill and therefore are defined in this section for purposes of the whole bill.

The definition of the term "disability" is key to the ADA. Throughout the process on the ADA, we were often asked to substitute for this definition a list of selected disabilities that would be the only disabilities covered under the act. That approach was rejected by every committee. Instead, the act retains the flexibility definition that was first adopted in Section 504 of the Rehabilitation Act of 1973, that has been in effect for over 15 years, and that was recently explicated clearly by the Supreme Court in *School Board of Nassau County* v. *Arline,* 480 U.S. 273 (1987).

The first prong of the definition covers individuals who have a physical or mental impairment that substantially limits a major life activity. Physical impairments cover all forms of physiological disorders, cosmetic disfigurements, or anatomical losses affecting different body systems. Mental impairments include a similar, broad range of cognitive, emotional, and mental disabilities. Under this prong of the definition, these impairments must also substantially limit some major life activity, such as caring for one's self, breathing, seeing, or working. Examples of impairments that substantially limit major life activities are visual or hearing impairments, mobility impairments, cerebral palsy, epilepsy, HIV infection, mental retardation, chronic schizophrenia, or heart disease.

The second prong of the definition covers individuals who have a record of an impairment. This covers, for example, an individual who has recovered from an impairment—such as cancer—but is discriminated against on the basis of that past impairment that substantially limits one or more major life activities.

The third prong of the definition covers individuals who are regarded as having an impairment. This prong of the definition is critical in ensuring adequate protection for all individuals who face discrimination on the basis of actual or perceived physical or mental impairments. The scope of this prong was recently explicated by the Supreme Court in School Board of Nassau County versus Arline, where the Court noted that while a particular impairment might not diminish a person's physical or mental capabilities, it might nevertheless limit that person's ability to participate in the community as a result of the negative reactions of others to the impairment. *Arline,* 480 U.S. 273, 283 (1987). Thus, for example, if an employer perceived that an applicant had an impairment which precluded that applicant from working for the employer, and refused to hire—or fired—the person on that basis, or if the owner of a public accommodation perceived a patron as being unable to enjoy the goods or services being offered, and discriminated against the patron on that basis, those individuals would be covered under the third prong of the definition, whether or not the person had an impairment that actually limited participation.

TITLE I: EMPLOYMENT

Title I of the ADA deals with employment. The provisions of the original title I of H.R. 2273, which incorporated a range of concepts, have now been incorporated within each title.

The substantive employment protections of the ADA are primarily derived from protections that exist under section 504 of the Rehabilitation Act of 1973. Much of the procedural and enforcement framework has been derived from title VII of the Civil Rights Act of 1964.

Section 102(a) sets forth the general rule of this title: a covered entity may not discriminate against a qualified individual with a disability, because of the disability of such individual, with regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions, and privileges of employment. The Education and Labor Report and the Judiciary Committee report further discuss the range of employment decisions and practices covered by the statute.

Section 102(b) sets forth constructions of the general rule. These constructions describe various forms of discrimination that are among those included within the general prohibition. Most of these provisions derived from the section 504 regulations to give example of the types of actions that would be prohibited under section 102(a).

For example, section 102(b)(1) sets forth the simple, straightforward requirement that a covered entity may not limit, segregate, or classify an applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of such an individual's disability.

Section 102(b)(2) provides that a covered entity may not enter into a contractual or other relationship that has the effect of subjecting the covered entity's applicants or employees to discrimination. These include relationships with referral agencies, labor unions, and entities providing fringe benefits or training programs. There was extensive discussion regarding this provision during consideration by the Education and Labor Committee and that Committee's report gives examples of how this important provision works.

Section 102(b)(3) provides that a covered entity may not use standards, criteria, or methods of administration that have the effect of discrimination or that perpetuate the discrimination of others who are subject to common administrative control. This provision is derived from the section 504 regulations.

Section 102(b)(4) provides that it is discrimination to exclude, or otherwise deny equal jobs or benefits, to a qualified individual with a disability because of the known disability of an individual with whom the qualified individual is know to have a relationship or association. This is an important provision which is designed to extend protection to those who experience discrimination because they live with, associate with, give care to, are married to, or have some other relationship with a person with a disability—and are discriminated against because of that association or relationship.

Section 102(b)(5) requires that reasonable accommodations be made to the known physical or mental limitations of an otherwise qualified individual with a disability. This is a central provision of the bill and various aspects of the provision were discussed at length during consideration of the bill.

First, as noted, an entity covered under the ADA may not discriminate against a "qualified individual with a disability." A qualified individ-

ual with a disability means a person who, with or without a reasonable accommodation, if necessary, can perform the essential functions of the job that the person holds or desires. The determination of whether a person is qualified must be made at the time of the employment action—for example, the point of hiring or promotion—and paternalistic concerns about what is best for the person with the disability cannot be used to foreclose employment opportunities.

There was extensive discussion regarding the concept of "essential functions" of a job. This is a key concept in ensuring non-discrimination protection for people with disabilities. At times, an employer may have a marginal, nonessential job function which a person with a disability cannot, in fact, do. The purpose of this provision is to establish that if a person with a disability can do the essential functions of a job, that person is considered a "qualified" individual for purposes of that job.

An amendment was added in the Judiciary Committee to clarify that consideration must be given to an employer's determination as to what job functions are essential. By contrast, an amendment that would have created a presumption in favor of the employer's determination of what was an essential function was rejected by that committee. An employer is the one that first designates the essential functions of the job. A person with a disability, who has been rejected because he or she cannot perform one of those functions because of his or her disability, can then challenge whether that function is, indeed, essential. At that point, a court should give consideration to the employer's judgment, as well as to the evidence submitted by the plaintiff, as to whether the function is, in fact, essential. Another amendment that has been added to the ADA provides that a court should consider as evidence of an essential function any written job description the employer may have. Of course, a job description which is not at all tailored to the actual functions of the job will, ultimately, have little weight. The fact that a task is written in a job description does not, by itself, mean that it is essential. A court, however, must consider the written job description as evidence, and then ultimately decide, based on the evidence submitted by both the person with a disability and the employer, what constitutes the essential functions of the job.

As noted, a person is considered qualified for a job position if, with reasonable accommodation, if necessary, the person can perform the essential functions of the job. The provision of reasonable accommodations to individuals with disabilities is a key requirement under section 504 and a key requirement under the ADA. While many people with disabilities may not require any reasonable accommodations at all to perform a job—they simply require an employer to shed his or her preconceived notions about the abilities of people with disabilities—the provision of a reasonable accommodation is critical for a number of people with disabilities.

Under the ADA, as under section 504, an accommodation need not be provided if it would impose an "undue hardship" on the employer. There is no hard and fast rule about what is or is not an "undue hardship." To the contrary, the strength of section 504, and the strength of the ADA, is that "undue hardship" is a flexible standard, which is designed to take into account a range of different factors. As the act provides, an accommodation is an undue hardship if it would require significant difficulty or expense on the part of the covered entity, when considered in light of the factors set forth in the act.

This consideration in light of the factors is an essential element in this area. In fact, a change was made in the bill to add explicitly to the standard the words: "when considered in light of the factors set forth in subparagraph (B) [of the statute]". Section 101(10). The importance of this flexible approach can be seen, for example), in a case such as *Nelson v. Thornburgh*, 567 F.Supp. 369 (E.D. Pa. 1983), as noted in the Judiciary Committee report. In that case, a group of state income maintenance workers who were blind requested several accommodations. In holding that section 504 required these accommodations to be provided, the court noted that while the costs of the accommodations were substantial, the additional dollar burden was only a small fraction of the agency's personnel budget. In light of those facts, the accommodations would not require a "significant expense" under the act and this would not be an undue hardship. Of course, the key point is that the same accommodation may well be an undue hardship for a small employer because it would require expending significant proportions of that employer's available resources.

This flexibility was, I believe, an important factor in the rejection by this House of an amendment that was offered which would have created a presumption that an accommodation that cost over 10 percent of an employee's annual salary constituted would be presumed to be an undue hardship and thus would not be required under the act. That provision was directly contrary to the flexible approach for determining undue hardship which is based on over a decade of experience under the Rehabilitation Act. As noted, the Rehabilitation Act approach focuses on the resources of the employer. A 10-percent cap provision would fail to protect adequately the rights of persons with disabilities to receive accommodations that would, in fact, not impose an undue hardship on an employer. For example, the provision failed to account for the fact that many accommodations, such as physical changes to facilities and the acquisition of equipment, last for many years and are used by employees other than the employee in question, and that businesses always amortize the cost of equipment over a period of years. Moreover, a 10-percent cap on accommodations based on an employee's salary would exclude the hiring or retaining of an employee who required an accommodation that exceeds that limit, but which would not truly impose an undue hardship on the employer.

In terms of the factors to be considered in determining whether a reasonable accommodation would constitute an undue hardship there was significant discussion—during both the Education and Labor and Judiciary Committee considerations of this bill—of the approach to take when one large company owns a number of small, local facilities. Concerns were raised that the parent company may choose to close down a local store operating at a margin rather than devote significant expenditures for reasonable accommodations. The added factors allow courts to consider such consequences to the local store. I believe the approach finally taken in the bill strikes the proper balance, by weighing the resources of both the large company and the local facility. By including the "site-specific" factors in the determination of undue hardship, it is assured that the situation at the local facility will be considered when determining what is an undue hardship to the covered entity.

Section 102(c) establishes a specific and important provision on medical examinations and inquiries. A basic principle underlying this title is that employment decisions must be made on the basis of merit, and not on the basis of stereotypes or preconceptions. This section, by prohibiting medical inquiries before an offer of employment is made, ensures that a procedure is established so that misconceptions do not bias the selection process. After an offer of employment is made, medical exams may be conducted under specific conditions. In addition, the section ensures that employees on the job are not unnecessarily identified as people with disabilities through a medical examination if there is no job-related reason to conduct such an examination. In order to respond to some questions raised by employers, however, the bill now expressly clarifies that voluntary medical examinations—for example, "wellness" programs often offered by corporations—are valid under this title.

Section 103 sets forth defenses available under the title. This section provides that a covered entity may defend the application of a qualification standard, test, or selection criteria that screens out or tends to screen out an individual with a disability by demonstrating that the standard, test, or criterion is job related and consistent with business necessity. The reports of both the Education and Labor Committee and Judiciary Committee describe this defense at greater length.

During consideration by the Judiciary Committee, section 103(b) was modified to state that the term "qualification standard" may include a requirement that an individual "not pose a direct threat to the health or safety of other individuals in the workplace." "Direct threat" is defined in section 101(8) to mean "a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation."

This provision and definition come from cases under section 504. Indeed, the definition of "direct threat" comes directly from the Supreme Court case of School Board of Nassau County versus Arline, which dealt with an individual who had turberculosis. The purpose of adding this provision was to allay any concerns on the part of those who unnecessarily feared that this title would require them to hire or retain employees who posed a significant risk to others. At the same time, the amendment was designed to set forth clearly in the title the specific standard that must be met before discriminating against an individual based on "fear of risk." Thus, this provision

protects individuals with disabilities from discrimination based on generalizations, fears, and "conventional widom" about risks they might pose. In order to apply the qualification standard, the covered entity must show that there is a significant risk posed by the individual that no reasonable accommodation could eliminate the risk, and that there is evidence supporting this determination is credible. For example, in the case of a person with a mental disability a court shall determine whether the evidence is sufficiently recent to be credible or for example, in the case of a person with a contagious disease a court shall determine that the assessment of risk is based on valid medical evidence.

Finally, section 104 of the title expressly excludes individuals who are current illegal users of drugs from the definition of a "qualified individual with a disability." The section continues coverage for individuals who are no longer illegally using drugs or are perceived as illegally using drugs, and expressly provides that testing applicants and employees for the illegal use of drugs is permitted. As both the Education and Labor Committee and Judiciary Committee reports explain, such drug testing may not be used to undermine the protection set forth in section 102(c) for individuals with disabilities who legally take drugs for their disabilities. Those reports also make clear that the current drug policies of the various sports leagues are valid under this title.

However, the language which appears in the Education and Labor report concerning this matter has certain typographical errors which I would like to correct. The current policies of the four professional sports leagues are completely consistent with the act and the ADA is not intended to disturb those policies. Furthermore, I intend to engage in a colloquy with the gentleman from Ohio [Mr. ECKART] which further discusses this matter. The language in the Education and Labor Report should have been as follows:

As noted, under section 104, employers may discipline or discharge employees who are current users of illegal drugs. The professional sports leagues have developed drug policies to deal with players who have current drug problems. The Committee has reviewed these policies because the leagues have raised questions as to whether such policies comply with the act.

The committee believes that the league's policies are in compliance with the requirements of this act. The National Football League permits its players who test positive on drug tests to enter a treatment program and not be disciplined on the first occasion. Players who test positive on a second occasion are permitted to receive treatment but are suspended for a minimum 30-day period or until later deemed fit to return. After a third positive drug test a player is banned from play and is ineligible for reinstatement for at least one year. This policy is consistent with the act.

The National Basketball Association permits players who voluntarily seek treatment for a current drug problem to obtain treatment without cost to the player on the first occasion without suffering any discipline. Players who are using drugs and do not seek treatment voluntarily and are subsequently detected are terminated for a minimum period of two years. Players who relapses and seek treatment on a second occasion are suspended but permitted to receive treatment and return when deemed fit. Players who relapse for a second time are dismissed and cannot seek reinstatement for at least 2 years. The decision to reinstate players in both the NBA and the NFL is based on an individualized determination that takes into consideration the player's satisfactory completion of a treatment program, conduct following the dismissal, including completion of any suspension period. This policy is consistent with the act.

Finally, Major League Baseball gives players who use drugs and those who test positive on a drug test an opportunity to obtain treatment before being disciplined. Players who relapse are disciplined but are permitted to obtain treatment on a second occasion. This policy is consistent with the Act.

As noted, these drug policies are entirely consistent with the nondiscrimination provisions of the Act. The Committee recognizes the right of these and other sports leagues to maintain the integrity of professional sports through the disciplinary procedures, including dismissal, and recognizes that these three leagues have established reasonable policies that provide a means for players to receive rehabilitation and for appropriate discipline including termination.

In addition, it is consistent with the act for leagues that wish to do so to dismiss players who illegally use drugs or who relapse again after an opportunity to obtain treatment while providing an opportunity to petition for discretionary reinstatement after a specified time period, upon a showing of rehabilitation, which includes abstinence from the use of illegal drugs to the satisfaction of the appropriate league authority, as one factor in the overall circumstances.

The National Hockey League has adopted a different policy that is also consistent with the Act. The National Hockey League suspends players who are involved with illegal drugs and provides an opportunity for reinstatement within a year based on a showing of positive rehabitative conduct.

The act is not intended to disturb the legitimate and reasonable disciplinary rules and procedures established and enforced by professional sport leagues; nor is it intended to disturb collectively bargained policies that have been entered into between league management and its players association that are not inconsistent with this Act.

Section 104(e) of the bill specifically addresses rail employees. This provision was added to ensure that drug testing that is being conducted by rail companies pursuant to rules and regulations other that the Department of Transportation regulations cited in section 104(c)(5) can be conducted, provided the testing program is otherwise lawful and the individual holds or seeks a job that the Department of Transportation has determined is safety-sensitive. In the view of the committee having railroad jurisdiction, the current Department of Transportation regulations do not encompass all truly safety-sensitive positions. In addition, testing conducted pursuant to this section must be accurate, as is required with the other testing permitted in this section, and adverse actions may be taken only against individuals who are currently engaging in the illegal use of drugs or are currently impaired on the job from alcohol use.

Section 107, the enforcement section of the title, cross-references the enforcement sections of title VII of the Civil Rights Act of 1964. The purpose of this cross-reference is to ensure that people with disabilities retain the same remedies and procedures that are available to women and minorities under the 1964 Civil Rights Act, i.e., injunctive relief, pay and benefits. As has been discussed at length during this process, there is currently a bill pending (H.R. 4000) that would expand the remedies and procedures available under title VIII. When that bill passes, the cross-reference to title VII in the ADA will assure that those remedies and procedures will be available to people with disabilities as well—as they well should be in a society based on parity and equality.

A clarifying amendment was added by the Judiciary Committee to this enforcement section, as well as to the enforcement sections in titles II and III. That clarifying amendment has been incorporated in the final bill. This amendment struck the words "shall be available" from section 107(a) and substituted the words "shall be the powers, remedies, and procedures this title provides." A concern had been expressed that the term "shall be available" could be misinterpreted to mean that a plaintiff under the ADA was not required to avail himself or herself of the same procedures—such as EEOC enforcement—that other minorities had to follow under title VII. Because, to the contrary, the central point of this provision was to establish parity with other minorities under title VII, this amendment was accepted as a clarifying amendment. While section 501(b) of the act ensures that other Federal laws—including the Rehabilitation Act of 1973—and State laws remain available for people with disabilities, the title VII remedies are the only remedies provided by title I of the ADA.

Because sections 501, 503 and 504 of the Rehabilitation Act remain in full force for entities covered under those provisions—see section 501(b) of the ADA—concerns were raised during the deliberation by the Education and Labor Committee that such entities might face duplicative administrative and judicial proceedings under the Rehabilitation Act and the ADA. In order to address that concern, a new provision was added to the enforcement section requiring that procedures be developed to avoid duplication of effort and imposition of inconsistent standards for the same requirements under this title and the Rehabilitation Act. That provision has been incorporated in the final bill.

TITLE II: PUBLIC SERVICES

Title II of the ADA covers public services. Essentially, it extends the requirement of section 504 of the Rehabilitation Act to all programs of State and local governments, regardless of the receipt of Federal financial assistance.

In order to accommodate the changes that were made in the Energy and Commerce Committee and the Public Works and Transportation Committee, title II of the bill has been somewhat restructured. Subtitle A now sets forth the general anti-discrimination provision and other relevant provisions for all public entities, which includes State and local governments, agencies and departments of a State, and Amtrak and commuter rail. Subtitle B deals specifically with certain transportation services provided by public entities.

SUBTITLE A

Section 202 of subtitle A, the general antidiscrimination provision, directly tracks the language of section 504 of the Rehabilitation Act. Instead of listing out all of the constructions of discrimination, however, as the other titles do, section 204 directs the Attorney General to issue regulations implementing this section that are consistent with this act and with regulations under section 504 of the Rehabilitation Act of 1973. Thus, to the extent that the constructions of discrimination in titles I or III have clarified what constitutes discrimination on the basis of disability, those constructions must be included, as long as they provide no less protection than the section 504 regulations. As a general matter, the regulations that have been issued under section 504 will govern this section and the same standards included in those regulations—and not anything lower—will apply to this section.

Title II covers the range of services, programs and benefits offered by State and local governments, without a requirement that such programs or activities received Federal financial assistance. Thus, title II extends to whatever spheres of authority a State or local government is involved in—including employment, health and service programs, the streets—which require curb-cuts—and the facilities owned or operated by such governments.

Section 504 has been critical in opening up public services and programs to people with disabilities and in ending segregation. Title II of this act is designed to continue breaking down barriers to the integrated participation of people with disabilities in all aspects of community life. While the integration of people with disabilities will sometimes involve substantial short-term burdens, the long-range effects of integration will benefit society as a whole.

Also, while it may sometimes appear more convenient to provide services to people with disabilities in a segregated manner, that does not constitute a valid justification for separate or different services under either section 504 or this title. While separate services which are designed to provide a benefit for people with disabilities—such as specialized recreation programs—are not prohibited by section 504 or by this title, the existence of such programs may not be used as a basis for excluding a person with a disability from a program that is offered to people without disabilities or for refusing to provide an accommodation in a regular setting.

As noted, title II covers the range of services, programs and benefits offered by State and local governments. It also includes providing training to public employees in order to ensure that discriminatory actions do not occur. For example, persons who have epilepsy are sometimes inappropriately arrested because police officers have not received proper training to recognize seizures and to respond to them. In my situations, appropriate training of officials will avert discriminatory actions.

Section 203 sets forth the enforcement provision for title II and incorporates the remedies, procedures and rights of section 505 of the Rehabilitation Act of 1973. As in title I, the Judiciary Committee adopted an amendment that deleted the term "shall be available," and substituted in its place "shall be the remedies, procedures, and rights this title provides." This change has been incorporated in the final bill. As in title I, the intent of the change is simply to clarify that the remedies provided by the Rehabilitation Act—as they currently stand or as they might be amended in the future—are the remedies that title II provides. The Rehabilitation Act provides a private right of action, with a full panoply of remedies. See, for example, *Miener* v. *State of Missouri,* 673 F.2d 969 (8th Cir. 1982); *Kling* v. *County of Los Angeles,* 769 F.2d 532 (9th Cir. 1985).

This enforcement provision, like the others in the ADA, must be read in conjunction with section 501(b), which provides that the ADA does not preempt other applicable laws that provide equal or greater protection. Thus, section 504 of the Rehabilitation Act is still available to be used, as are remedies available under 42 U.S.C. 1983 and State law claims.

SUBTITLE B

Subtitle B addresses specifically public bus and public rail transportation. Part I of the subtitle deals with all public transportation other than transportation by aircraft—which Congress has recently addressed in the Air Carrier Access Act—transportation by Amtrak and commuter rail. Part II deals with transportation by Amtrak and commuter rail.

PART I

Part I specifies, in further detail, the forms of discrimination that are prohibited by section 202 with respect to public buses, public light rail and rapid rail vehicles, and other public vehicles not covered under part II. As noted, section 202 applies to all public entities, as defined in the statute.

Part I lays out the basic, simple rule that every new bus, new rapid rail, new light rail, or other new vehicle used on designated transportation system must be accessible to individuals with disabilities, including individuals who use wheelchairs. This basic, simple rule will finally ensure that—at some point in the future—all of the mainline transportation systems will be fully accessible to individuals with disabilities. Of course, any accessibility equipment that will be bought for these vehicles must also be maintained in good operational order and must be operated when needed. Otherwise, the accessible mainline system will exist only in theory, and not in fact.

Even when the mainline system becomes fully accessible, there will be some individuals with disabilities who will not be able to use that system because of the severity or nature of their disability. In addition, until the mainline system becomes fully accessible, it will not be usable by many individuals with disabilities. To deal with those situations, the act requires that paratransit services be provided as well.

One of the changes that the Public Works and Transportation Committee made in the bill was to expand on and to clarify the paratransit requirement under the bill. Essentially, part I now sets forth an established minimum of paratransit services that must be provided under this act. This minimum requires that paratransit be provided to any individual with a disability who is unable, because of a physical impairment—including a vision impairment—or because of a mental impairment, to ride the mainline system without the assistance of another individual. It also requires paratransit service to be provided to an individual who has a specific impairment related condition that prevents that individual from traveling to or from the mainline system. Thus, for example, paratransit services would be provided to an individual who is blind who may lack the necessary mobility skills to safely traverse city streets. Such services would also be provided to an individual with a mental impairment who needs assistance in getting to a mainline stop, in counting change, and in getting off at the appropriate stop and to an individual who uses a wheelchair and a respiratory device who may need the assistance of another individual to help with the device.

To deal with the interim situation before the mainline system is fully accessible, the act also requires that paratransit services be available to a person who cannot use the system because there is no accessible vehicle available at the time, or within a reasonable period of such time, the person wishes to ride. The minimum also requires that paratransit service be made available to at least one other individual accompanying the person with the disability.

The act also requires the Secretary to establish certain minimum service criteria for the provision of these paratransit services. To guard against excessive costs, the act includes an "undue financial burden" limitation for public entities. Of course, it is expected that public entities will make every effort to ensure that their regular and their paratransit services are operated in a cost-efficient manner, so that more paratransit services can be provided prior to reaching the "undue financial burden" limitation.

While the changes made by the Public Works and Transportation Committee added clarity to the act, it was also important—in setting forth these clear guidelines—to note clearly that Congress intended that these guidelines be minimums. As long as a local entity meets the minimum, local entities are perfectly free to provide more service. For example, a local entity might choose to allow several individuals to accompany a person with a disability on a paratransit vehicle. Section 223(f) makes the point clearly that nothing in this section should be construed to cut back or to restrict the paratransit services currently being offered or that might be offered by local entities in the future.

I would also like to point out that the pattern of paratransit services currently varies widely from city to city. There are many different kinds of organizations which provide these services, which receive their funding from various sources. Those organizations which are private, and are not governmental transit entities operating fixed-route operations, are clearly not directly governed by this title.

Section 223(f) makes it clear, however, that the paratransit requirements of the ADA are not designed to reduce in any way the current level of services being offered by a variety of organizations. Entities that are currently providing paratransit services should be encouraged to continue to provide such services and, indeed, to provide such services beyond the minimum requirements set forth in this title.

The Public Works Committee also modified the alterations provision governing existing fa-

cilities. Under the modified provision, when a public entity undertakes an alteration that affects the usability of an area of a facility that contains a primary function, the entity must—to the maximum extent feasible—make the altered area accessible and, in addition, make the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area accessible as well. These latter alterations must be made if they are not disproportionate to the overall alterations in terms of cost and scope. A similar modification of an analogous provision was made in title III by the Education and Labor Committee and the Judiciary Committees and are discussed in the reports of those Committees accompanying the bill.

Part I also sets forth requirements for making existing key stations for rapid or light rail systems accessible over a period of time. The changes are supposed to be made as soon as practicable, but in any event, in no less than three years after enactment of the act. The act also allows an extension for extraordinarily expensive structural changes, for up to 30 years, upon application to the Secretary, with an additional requirement that at least two-thirds of the key stations must be accessible within 20 years. Thus, applications, submitted under this section will be granted only when, in fact, there are extraordinarily expensive structural changes that must be made. In addition, it is expected that among the two-thirds stations that must be made accessible within 20 years, priority will be given to those with high ridership, those that operate as feeder stations, and those that represent a geographic mix of stations.

The Public Works and Transportation Committee also added a provision regarding historic vehicles. The purpose of this provision is to establish that when historic vehicles are remanufactured, access features do not have to be included if the addition of such features would significantly alter the historic character of the vehicle. If there are some access features that can be included without significantly altering the historic character, those features must be included.

Part II of subtitle B deals with Amtrak and commuter rail. There was extensive discussion of this section with the Energy and Commerce Committee and I believe that the current provisions establish a strong, effective means of ensuring accessible transportation on Amtrak and commuter rail and recognizing the fiscal and operational realities of modern-day rail transportation.

As with part I, the general rule of non-discrimination set forth in section 202 applies to Amtrak and commuter rail, just as it applies to all other public entities. Part II, however, sets forth specific provisions with regard to accessibility of particular Amtrak and commuter rail cars and accessibility of stations. A detailed and specific plan for buying different types of Amtrak cars was worked out to ensure that individuals who use wheelchairs will have access to the same number of seats that would have been available had every new Amtrak coach car been built in a manner accessible to such individuals. In addition, there are time limits established for when these accessible Amtrak cars must be available. This approach ensures that, within a definite time period, access to Amtrak cars will be ensured for individuals who use wheelchairs. This approach also took into account, and met, the operational and financial concerns of Amtrak.

The report from the Energy and Commerce Committee clearly and carefully lays out the details of this plan and I will not repeat all of these details. I urge interested parties to read that report for useful guidance. I wish to note here only some specific points. The discussion of these points should not be construed as deemphasizing the importance of the other numerous points made in the Energy and Commerce report. Rather, this discussion exemplifies how the appropriate use of operational flexibility, rather than simply structural changes, can be used to provide access.

As the Energy and Commerce Committee report makes clear, the concepts of accessibility and usability entail more than simply accessibility to those who use wheelchairs. For example, new railroad cars might be required to include nonslip surfaces, contrast edges on steps, adequate illumination in boarding areas, tactile markings for identifying basic amenities, contrasting characters on signage, a public address system for audible announcements, and automatic door closing alarms to make the railroad cars accessible to and usable by individuals with all forms of disabilities.

I should note that there was extensive discussion regarding accessibility of dining cars. The bill provides that single-level dining cars do not have to be built in a manner that makes them accessible from the station platform, but also ensures that individuals who use wheelchairs will be able to enter the dining car by exiting from an accessible car and then reentering through the end door of the dining car. Although Amtrak officials are not required to move the train to allow this "exit and entry" of the individual who uses a wheelchair, personnel on the train should assist the individual who uses a wheelchair in those circumstances where the exit and entry can be done. In addition, the bill provides that "unless not practicable," Amtrak shall place an accessible car adjacent to the end of the dining car so that this "exit and entry" can work. The whole process of "exit and entry" depends on an accessible car being placed adjacent to the dining car and thus, unless not practicable, Amtrak should provide this accessible car adjacent to the dining car.

A similar effort is expected on the part of Amtrak with regard to bilevel dining cars and bilevel lounge cars. Under the bill, bilevel dining cars do not have to be built accessible to individuals who use wheelchairs, while bilevel lounge cars are required to be built accessible to such individuals. Amtrak officials indicated during discussions on this section that bilevel lounge cars were almost uniformly placed next to bilevel dining cars. It is expected that Amtrak will continue to buy these bilevel lounge cars and will continue to place them adjacent to the bilevel dining cars, unless not practicable, so as to ensure access by individuals who use wheelchairs to the same type of food service they could have received in the bilevel dining car. In addition, people with disabilities should not be treated as "different" and "special" in these lounge cars. During discussions on this section, Amtrak officials indicated they were thinking of expanding the bilevel lounge cars to include tables and food table service.

The commuter rail provisions of the bill were also clarified during the Energy and Commerce Committee deliberations. Under the bill, all new commuter rail cars must be built accessible to all individuals with disabilities, including individuals who use wheelchairs. The section now clarifies, in addition, that if there is no restroom provided to all other passengers on the car, an accessible restroom need not be included for individuals who use wheelchairs. In addition, because individuals who use wheelchairs do not transfer into a seat on a commuter car, there is no requirement that there be space to fold and store a wheelchair and no requirement that there be a seat to which the passenger can transfer.

The Energy and Commerce Committee adopted the same modification to the alterations provision that was adopted by the Education and Labor and Judiciary Committees. That provision is discussed in those reports and would apply here as well.

Interim accessibility requirements were adopted in subtitle B of title II and in title III as well. The purpose of these sections is to ensure predictability for architects and builders in the event that final regulations have not been issued under the act within the mandated time period. It is expected, however, that the regulations will be issued in a timely fashion so that this section will not need to be unduly used.

TITLE III

Title III bars discrimination, on the basis of disability, by any person who owns, leases, leases to, or operates a place of public accommodation. The purpose of this title is to finally open up all areas of American life to people with disabilities.

In order to set forth clearly the range of places covered under this title, the act lists 12 categories of places that are considered public accommodations under the law. While this list is exclusive, it is intended that the categories be interpreted broadly to include the range of places that would belong within the category. For example, category 5 is: "a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment." The intent is that any sales or rental establishment would be included within this section. Indeed, one of the clarifications made in the Judiciary Committee bill, and adopted in the final bill, was to delete the word "similar" that is, "or other similar sales or rental establishment" from the statute. The point is that a person alleging discrimination does not have to prove that a particular business is similar to one of the businesses listed for example, similar to a grocery store, but rather, that the business falls within the general category described.

Section 302(a) sets forth the general rule prohibiting discrimination under the title. The Judiciary Committee added a provision to this general rule that clarifies which entities are covered under the rule and this provision has been incorporated in the final bill. This addition clarifies that the requirements of the title apply to a person who owns, leases, leases to, or operates a public accommodation. Thus,

for example, the entities covered would be a company that owns a chain of restaurants, a company that leases a restaurant for an occasion, a company that owns a building and leases the building—or part of the building—to the restaurant, and a company that operates a restaurant.

Section 302(b)(1) sets forth the construction of the discrimination prohibited in a series of general prohibitions. As noted above, title I of the original H.R. 2273 has been deleted and its concepts incorporated within each title. These general prohibitions represent those of the original title I, and much of the discussion regarding the analogous provisions in the employment section apply here as well.

For example, there was significant discussion during consideration by the Education and Labor Committee regarding the contractual liability provisions of section 302(b), which are addressed in the report of that committee and in the report of the Judiciary Committee. The basic requirement is that an entity covered under title III may not use a contractual arrangement to subject its own customers and clients to discrimination.

The general prohibitions also provide protection for individuals and entities that have a relationship or an association with a person with a disability. Entities are included within this provision because, at times, businesses, service providers and organizations that provide services to or represent people with disabilities, such as people with HIV disease, are subject to discrimination as well.

Section 302(b)(2) sets forth specific prohibitions that fall within the construction or discrimination under this title. There should not be any conflict between these specific prohibitions and the general prohibitions, because this structure follows the structure adopted in the section 504 regulations issued in 1977. However, to the extent that there is any perceived conflict, the specific prohibitions govern.

The specific prohibitions provide that it is discriminatory to impose an eligibility criterion that screens out, or tends to screen out, a person with a disability. However, the covered entity can adopt such a criterion if it can demonstrate that the criterion is necessary for the provision of the goods or services being offered. (Section 302(b)(2)(A)(i))

This provision ensures important protection for people with disabilities, while still accommodating the truly legitimate needs of businesses. For example, entities covered under title III may not use a criterion for services that would deny services to a person with a disability, for example, no services to a person with cerebral palsy or that would screen out people with disabilities for example, requiring a driver's license for identification that screens out people with epilepsy when another equally valid form of identification would suffice. At the same time, however, covered entities may impose eligibility criteria that are necessary for the provision of services. For example, a height limitation for certain rides in an amusement park may screen out certain persons with disabilities of short stature, but will be a legitimate criterion because of safety concerns. The key requirement here is that the criterion must, in fact, be truly necessary for the provision of services. It is expected that courts will carefully scrutinize any assertion by an covered entity that a criterion which discriminates against people with disabilities is necessary. For example, in the safety context, criteria related to such concerns must be based on actual risks and evidence and not on speculation, stereotypes or generalizations about persons with disabilities.

A specific construction was added at the end of section 302 by the Judiciary Committee, section 302(b)(3), providing that nothing in the title shall require an entity to provide goods or services to an individual with a disability when such individual would pose a direct threat to the health or safety of others through the provision of such goods or services. The term "direct threat" is defined as "a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services."

This provision is analogous to one added in the employment title. Again, the purpose of the provision was simply to allay any unnecessary fears on the part of entities covered under this title and to set forth clearly the high standard that must be met before goods or services can be denied on the basis of "fear of risk." Thus, this specific construction basically explicates and describes a "necessary" eligibility criterion in the safety context.

The specific prohibitions also require that an entity covered under title III make reasonable modifications in policies or practices when such modifications are necessary to provide goods or services, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of the goods or services being offered. Section 302(b)(2)(A)(ii). For example, it would be discriminatory for a restaurant to refuse to alter a "no pets" rule for a person who uses a guide or a service dog, because such an alteration would not fundamentally alter the nature of the goods being provided.

It is also discriminatory under this title not to provide auxiliary aids or services to a person with a disability, unless the entity demonstrates that the provision of such aids or services would fundamentally alter the goods or services being offered or would result in an undue burden. Section 302(b)(2)(A)(iii). The term "undue burden" is analogous to the term "undue hardship" in the employment context. Like "undue hardship," the determination as to whether provision of an auxiliary aid or service constitutes an "undue burden" must be made on a case-by-case basis, based on the standard and factors used for determining an undue hardship. A critical factor in this determination is what constitutes an effective auxiliary aid or service in the context of the services or goods being provided—or a reasonable accommodation, in the context of employment. For example, while it may not be necessary to provide braille price tags for shoppers who are visually impaired, it may be necessary to provide braille manuals in the employment context. For this reason, although the term "undue burden" in title III is analogous to the term "undue hardship" in title I, the obligations of a business will vary depending on the context involved.

Finally, the specific prohibitions require an entity covered under title III to remove architectural barriers, structural communication barriers, and transportation barriers in existing facilities and vehicles when such removal is "readily achievable." (Section 302(b)(2)(A)(iv).) The term "readily achievable" is new—it does not appear in Section 504 regulations—and is defined in the title to mean "easily accomplishable and able to be carried out without much difficulty or expense." The basic purpose of this provision is to ensure that those physical access changes that can be made in existing facilities and vehicles without much difficulty or expense should be made. A deliberate decision was made in the ADA not to require extensive and expensive retrofitting. At the same time, however, a decision was made to place some requirement on covered entities so that changes that could be made without much difficulty or expense would get done. If such physical access changes are not readily achievable, then the covered entity must provide the goods or services through some alternative method, if such methods are readily achievable. (Section 302(b)(2)(A)(v)).

The approach taken by the ADA is essentially to focus on the future. Thus, while only "readily achievable" changes are required for existing facilities, the ADA establishes high standards for any new construction or alterations undertaken by public accommodations or commercial facilities.

The term "commercial facilities" is defined in the ADA as any facility that is intended for nonresidential use and whose operations will affect commerce. During consideration by the Education and Labor Committee, concern was raised that the term "potential places of employment"—the term used originally in H.R. 2273 and in S. 933 as passed by the Senate—might be confusing by implying that title III also incorporated some employment requirements. Because that was never the intent of the act—employment requirements are intended to be covered only under title I—the term "commercial facilities" was substituted for the term "potential places of employment." The same definition, however, that appears in S. 933 was retained. Thus, the scope of the definition remains as broad—covering any facility intended for non-residential use, whose operations affect commerce. (This would include office buildings, factories, transportation terminals, et ceteria.)

Section 303 sets forth the requirements for alterations and new construction. A change was made in the alterations section to require that when alterations are made to an area of a facility containing a primary function, the covered entity must—to the maximum extent feasible—also make the path of travel to the altered area and the facilities serving such area accessible, if such alterations would not be disproportionate to the overall alterations in terms of scope and cost. The reports of both the Education and Labor Committee and the Judiciary Committee address this provision and the manner in which it is intended to operate. As these reports note, it would clearly be disproportionate to require a covered entity to double the cost of a planned alteration. It would be consistent with the ADA, however, for the regulations to establish a specific standard, for determining the disproportionality

of the accessible path of travel and alterations of facilities.

In both the area of alterations and new construction, facilities must be built so that they are "readily accessible to and usable by" individuals with disabilities, including individuals who use wheelchairs. This is a term of art which contemplates a high degree of convenient accessibility for patrons and employees. For example, a new building should be designed so that a potential patron can get to a store, get into the store, and get to the areas where the goods are being provided. Similarly, a new building should be designed so that a potential employee can get to the building, get into the building, and get to and around the employment area.

Accessibility in new construction is important for persons with many kinds of disabilities, not only those with mobility impairments. For example, there are architectural features which are necessary to make a new building accessible to people with all kinds of disabilities. Under section 504 of the ADA, it is expected that the Architectural Transportation and Barriers Compliance Board [ATBCB] will collect information, conduct research, and issue guidelines on making new construction accessible to and usable by individuals with all kinds of disabilities.

The ADA includes an "elevator" exception for both new construction and alterations. Under this exception, facilities that are less than 3 stories, or have less than 3,000 square feet per story, are not required to install an elevator. A shopping center, shopping mall, professional offices of a health care provider, and any other category of facilities designated by the Attorney General as requiring an elevator are not subject to this exemption.

The ADA's basic accessibility requirements may not be evaded by constructing facilities in such a way that no story constitutes a "ground floor;" rather, at least one accessible ground story must be provided in each building. In addition, where ground level entry is provided from more than one story of a facility, each such story must still be readily accessible to and usable by individuals with disabilities.

The requirements regarding alterations and new construction are key provisions of the ADA. These requirements will help ensure that the new America will, in fact, be accessible to all people with disabilities.

Title III also covers transportation provided by private entities. These entities are covered in two separate sections. The specific prohibitions, sections 302(b)(2)(B)-(C), cover entities that provide transportation services, but are not primarily in the business of offering such services. This would include, for example, a business that runs a shuttle service on the side for its customers or a hotel that runs a transportation service for its patrons. Any new large vehicle—a vehicle with a seating capacity of more than 16 passengers—that such entities buy for a fixed route system must be accessible to persons with disabilities. If the entity is buying smaller vehicles for such a system, it must ensure that its system, when viewed in its entirety, offers an equivalent level of service to people with disabilities. If such entities are operating "demand responsive" systems, they must ensure that their system, when viewed in its entirety, provides an equivalent level of services to people with disabilities.

Section 304 covers entities that are primarily engaged in the business of transporting people. These entities are under the same general non-discrimination prohibitions as other entities covered under title III. In addition, there are specific provisions regarding accessibility of vehicles. Such entities must ensure that all new vehicles—other than certain exempted vehicles—used in fixed route systems are accessible, and that demand-responsive systems operated by such entities provide an equivalent level of service to people with disabilities. Provisions regarding remanufacturing rail cars and historic rail cars were added by the Energy and Commerce Committee.

The Public Works and Transportation Commitee refined the requirements governing over-the-road buses operated by private entities in section 305. The Office of Technology Assessment [OTA] is mandated to study various factors, including the access needs of people with disabilities and the effectiveness of various methods of providing accessibility to such buses. The Secretary of Transportation is required to issue interim requirements, under section 306, one year after enactment of the act, for accessibility to such buses—but such regulations may not require structural changes in over-the-road buses to provide access to persons who use wheelchairs or require the purchase of boarding assistance devices to assist such individuals. The inclusion of interim requirements are not intended to adversely influence or detract from the objectivity of the OTA study. Of course, once title III becomes effective—after 18 months—while providers of over-the-road bus service do not have to make structural changes in their buses or provide boarding ramps, such providers must still make such buses accessible to individuals with disabilities, including individuals who use wheelchairs, and must provide such individuals with assistance in boarding the buses if such individuals desire such assistance.

The OTA study must be completed within 36 months after the date of enactment of this act. Not later than 1 year after submission of the study, the Secretary of Transportation must issue new regulations that will implement the requirements for accessibility to over-the-road buses for individuals with disabilities, taking into account the results of the study. With regards to the regulations, it should be noted that the general regulations issued by the Secretary of Transportation for all transit providers under section 306(a)(1) would apply to providers of over-the-road buses as well, except where the special rules for providing access to such buses apply.

I should also point out that a decision was made not to require that accessible restrooms be placed on over-the-road buses, if such restrooms would result in a loss of seating capacity. However, as noted above, title III does require a modification of policies and procedures to accommodate individuals with disabilities. Thus, if an individual with a disability who was on the bus needed an accessible restroom, under the "modification of policies" provision, the provider of an over-the-road bus that did not have an accessible restroom would be required to ensure that the bus stopped at a rest stop that did offer an accessible restroom and that sufficient time was extended to the person with a disability to use that restroom.

Section 308 sets forth the enforcement procedures available under this title. The remedies and procedures set forth in title II of the Civil Rights Act of 1964 are the remedies and procedures this title provides. Again, the same amendment adopted in the Judiciary Committee is incorporated in the final bill, clarifying that the remedies of title II of the 1964 act, as they existed may be amended in the future, are the remedies provided by title III of the ADA. As in the other titles, section 501(b) ensures that remedies available under other Federal or State laws also continue to be available.

The Judiciary Committee also adopted a further clarifying provision, which has been incorporated in the final bill. The Judiciary Committee spelled out the type of "anticipatory discrimination" that was included under this title. The section had included a provision stating that a person who had "reasonable grounds for believing he or she was about to be discriminated against" could bring suit under the title. Concerns were raised as to what the "about to be" provision encompassed. This amendment first clarified, therefore, that any person who had reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303 could bring a suit. In other words, if a new construction or an alteration is being planned, and there are reasonable grounds for believing that such construction or alteration is being done without the accessibility features mandated by section 303, a suit may be brought. In addition, the amendment clarified that a person does not have to engage in a "futile gesture" if the person has notice that an entity covered under title III does not intend to comply with its provisions. For example, if a theatre has turned away six people with cerebral palsy and has indicated that it has a policy of turning away such individuals, a person with cerebral palsy can bring suit without first subjecting himself or herself to the humiliation of being turned away by the theatre. These elements of enforcement are those which exist under the other titles of the act—incorporated under the general phrase "alleging discrimination on the basis of disability"—but they have been explicated clearly in title III.

Damages are not available to private plaintiffs who bring suit for violations of title III. However, all forms of injunctive relief are available. Moreover, section 308(a)(2) explicitly mandates that injunctive relief must include orders to make facilities readily accessible to and usable by individuals with disabilities, to the extent provided by this title, and must include requiring the provision of an auxiliary aid or service, the modification of a policy or procedure, or the provision of goods or services through alternative methods, to the extent required by the title. This important relief that will be granted by the courts will be useful in ensuring prior compliance with the law.

Because private plaintiffs may not seek damages for violations of title III, however, the enforcement activity of the Attorney General under title III is particularly important. The Attorney General is charged with investigating alleged violations of the title and with undertaking periodic reviews of compliance of covered entities under the title. Under the ADA, the Attorney General may bring cases where there is a pattern or practice of discrimination by a covered entity, or where a single person or a group of persons has been discriminated against in violation of the title and such discrimination raises an issue of general public importance. It is expected that the Attorney General will take his or her responsibilities seriously under this act because many private plaintiffs will not find it feasible to bring suits for violations of this title because of the lack of availability of damages.

During consideration by the Education and Labor Committee, a provision was added allowing the Attorney General to certify that State or local laws meet or exceed the minimum standards for accessibility established by this title. This provision has been incorporated in the final bill. While such certification is designed to assist architects and builders in reducing the number of standards they must operate under, this provision may not be used as a means of reducing the protection available under this title. Thus, the Attorney General should carefully scrutinize any requests for certification and seriously consider any objections raised by individuals with disabilities to such certification, if such objections are made. The Education and Labor Committee report provides important guidance regarding this process.

TITLE IV

Title IV deals with the provision of telecommunication relay services. This requirement of the act will finally help end discrimination against deaf and hard of hearing individuals in our Nation's telecommunications network. By requiring nationwide relay services to be available for all local and long distance calls 24 hours a day, 7 days a week, this part of the bill will provide hearing impaired persons with the degree of independence necessary to benefit from other parts of the ADA. The relay services that are promised under title IV must offer telephone service that is functionally equivalent to telephone service enjoyed by hearing individuals. This means that relayed calls should not receive busy signals or delays that are any greater than those currently experienced by voice telephone users. It also means that operators handling relay calls must have the necessary typing, spelling, and grammatical skills to properly and efficiently relay calls. In addition, operators should be familiar with the cultural and linguistic differences of the deaf community, since it is this community that will be relying most on the relay services.

The Federal Communications Commission is charged with implementing and enforcing the telecommunication section of the ADA. In so doing, the FCC should make sure to receive input from those individuals who will be relying on the relay systems for everyday telephone service. The best way to do this will be for the Commission to form a Federal Advisory Committee that would assist the Commission in devising the requirements for relay systems and monitoring their operation and enforcement.

The Senate version of the ADA had contained a prohibition against the use of surcharges to fund interstate relay services. The House lifted this prohibition. The method of funding ultimately chosen for interstate services, however, should not be identified on telephone bills in a way that would suggest that relay services are only for deaf and hard-of-hearing individuals. There is no reason to single out and to stigmatize individuals with hearing impairments.

Relay services for everyone. They will serve to bridge the telecommunications gap that has existed for at least 55 years, when the Communications Act of 1934 was first passed. As such, information about relay services must be readily available to all individuals. The Commission should ensure that information about relay numbers in the various States is accessible to all TDD and voice telephone users through whatever means is necessary, including a central 800 number, directory assistance operator services, and telephone books.

Deaf and hard-of-hearing individuals have waited all too long to enjoy the basic telephone service that has come to be so fundamental to our lives. Title IV of this act will finally enable these individuals to enjoy equal access to this very essential part of American life.

TITLE V

Title V includes various miscellaneous provisions. Section 501(a) is a provision that governs the interpretation of the ADA. It provides that, except where otherwise provided in the ADA, this act should not be interpreted to apply a lesser standard than section 504 or than the regulations issued under section 504. Thus, for example, if section 504 regulations—or case law—has applied a particular standard, and the ADA has not explicitly adopted a different standard, then the section 504 standard—and not a lesser one—should apply. Of course, in situations where the ADA has adopted a different and lower standard than the section 504 regulations, then the ADA standard applies to the ADA.

Section 501(b) is an antipreemption provision that provides that the rights, remedies and procedures of any Federal law—including the Rehabilitation Act of 1973—and of any State law—including State common law—that provides protection for people with disabilities are not preempted. For example, the rights and remedies of section 504 of the Rehabilitation Act, of State laws prohibiting discrimination on the basis of disability, of 42 U.S.C. section 1983 and of State tort law remain available to people with disabilities. Of course, where section 504 has been explicitly modified by the ADA—such as in the section regarding Amtrak—section 504 as modified applies.

Section 501(c) provides that the ADA should not be construed to prohibit or restrict the underwriting or classification of risks in insurance plans. A specific balance was struck in this area, which ensures that insurance companies may continue to underwrite and classify risks based on sound actuarial principles, but that does not allow such underwriting to be used as subterfuge as a means to evade the purposes of title I and III of the act. The reports accompanying the Education and Labor Committee and Judiciary Committee bills describe this section and note the parameters of the requirements regarding insurance companies and employers.

Section 501(d) was added by the Judiciary Committee to address concerns raised by certain organizations representing individuals with visual impairments and it has been incorporated in the final bill. This provision ensures that nothing in the ADA shall be construed to require an individual with a disability to accept an accommodation or benefit which such individual chooses not to accept.

Section 504 requires the Architectural and Transportation Barriers Compliance Board [ATBCB] to issue minimum guidelines, to supplement the existing Minimum Guidelines and Requirements for Accessible Design [MGRAD], that will establish requirements to ensure that buildings, facilities, rail passenger cars, and other vehicles are accessible in terms of architecture and design, transportation and communication to individuals with all kinds of disabilities. This is an important job for the excellent staff at ATBCB. In the final bill, the time line for issuance of these supplemental guidelines was extended to 9 months, to give the ATBCB sufficient time to develop and issue the guidelines. As the Education and Labor Report noted, it is also expected that the board will consider whether other revisions or improvements of the existing MGRAD—including scoping provisions—are called for to achieve consistency with the intent and requirements of this Act. Such changes would then also be applied in the Uniform Federal Accessibility Standards [UFAS]. For example, under the current UFAS requirements, access in certain historic buildings is to be provided to all levels of a building or facility whenever practical. The final regulations in this area should clarify that such access to all levels is required unless doing so would threaten or destroy the historic integrity or would be structurally impracticable.

Requirements regarding historic properties were added by the Education and Labor Committee in section 504(c) and are incorporated in the final bill. While alterations that will truly threatens or destroy the historic significance of qualified historic buildings are accommodated through this provision, it is certainly expected that alterations and changes which do not threaten or destroy the historic significance of such buildings will be done.

Section 505 sets forth an attorney's fees provision. This provision is essentially complementary to those incorporated by reference in the other titles of the act, and is designed simply to set forth clearly the elements that were always considered to be included in those other provisions. Thus, attorney's fees may be awarded for all forms of judicial and administrative proceedings. In addition, litigation expenses are included within the rubric of attorney's fees. As such, those expenses are to be assessed against a plaintiff only under the narrow standard set forth in *Christianburg Garment.* Particularly because of the current unavailability of damages for private plaintiffs under the ADA, it is to be hoped that courts

will liberally apply the attorney's fee provision of the act.

Section 506 provides for an extensive technical assistance program. This program will be essential in ensuring knowledgeable and effective compliance with the act. It is expected that sufficient resources will be placed in this program in order that it may be truly effective.

The rest of the provisions of title V deal with congressional coverage, with further provisions regarding current illegal users of drugs—which are analogous to the provisions regarding such individuals in the employment context—and with various exclusions to the definition of disability that were adopted by the Senate and accepted in the House bill. One modification made in the last provision was to clarify that homosexuality and bisexuality were not considered—and indeed, were never considered—impairments under the act, and as such, are not covered disabilities under the act.

The Americans with Disabilities Act which comes before the House today represents a magnificent example of bipartisan deliberation. After 2 years of hearings, negotiations, and refinements, we have before us a bill that we can all be proud of. I urge my colleagues to pass the Americans with Disabilities Act.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2273, AMERICANS WITH DISABILITIES ACT OF 1990

Mr. HOYER. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 2273, the Clerk be authorized to correct section numbers, cross-references, punctuation, and indentation, and to make other technical and conforming changes necessary to reflect the actions of the House.

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

There was no objection.

GENERAL LEAVE

Mr. HOYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, and I ask unanimous consent that I be allowed to include material detailing the development of the ADA to appear in the RECORD at the close of debate on the amendments, on H.R. 2273, the bill just passed.

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

There was no objection.

Mr. HOYER. Mr. Speaker, pursuant to House Resolution 394, I call up from the Speaker's table the Senate bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. HOYER

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

The Clerk read as follows:

Mr. HOYER moves to strike all after the enacting clause of the Senate bill, S. 933, and to insert the provisions of the bill, H.R. 2273, as passed by the House, as follows:

Resolved, That the bill from the Senate (S. 933) entitled "An Act to establish a clear and comprehensive prohibition of discrimination on the basis of disability", do pass with the following amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Americans with Disabilities Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—EMPLOYMENT

Sec. 101. Definitions.
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SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disad-

vantaged socially, vocationally, economically, and educationally;

(7) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AUXILIARY AIDS AND SERVICES.—The term "auxiliary aids and services" includes—

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(2) DISABILITY.—The term "disability" means, with respect to an individual—

(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment.

(3) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

TITLE I—EMPLOYMENT

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission established by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4).

(2) COVERED ENTITY.—The term "covered entity" means an employer, employment agency, labor organization, or joint labor-management committee.

(3) DIRECT THREAT.—The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

(4) EMPLOYEE.—The term "employee" means an individual employed by an employer.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person, except that, for two years following the effective date of this title, an employer means a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person.

(B) EXCEPTIONS.—The term "employer" does not include—

(i) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(ii) a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986.

(6) Illegal use of drugs.—

(A) In general.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(B) Drugs.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

(7) PERSON, ETC.—The terms "person," "labor organization," "employment agency," "commerce," and "industry affecting commerce," shall have the same meaning given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(8) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(9) REASONABLE ACCOMMODATION.—The term "reasonable accommodation" may include—

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) UNDUE HARDSHIP.—

(A) In general.—The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include—

(i) the nature and cost of the accommodation needed under this Act;

(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

SEC. 102. DISCRIMINATION.

(a) GENERAL RULE.—No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) CONSTRUCTION.—As used in subsection (a), the term "discriminate" includes—

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration—

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an other-

wise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) MEDICAL EXAMINATIONS AND INQUIRIES.—

(1) IN GENERAL.—The prohibition against discrimination as referred to in subsection (a) shall include medical examinations and inquiries.

(2) PREEMPLOYMENT.—

(A) PROHIBITED EXAMINATION OR INQUIRY.—Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) ACCEPTABLE INQUIRY.—A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) EMPLOYMENT ENTRANCE EXAMINATION.—A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if—

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that—

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this Act shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this title.

(4) EXAMINATION AND INQUIRY.—

(A) PROHIBITED EXAMINATIONS AND INQUIRIES.—A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) ACCEPTABLE EXAMINATIONS AND INQUIRIES.—A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(C) REQUIREMENT.—Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

SEC. 103. DEFENSES.

(a) IN GENERAL.—It may be a defense to a charge of discrimination under this Act that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

(b) QUALIFICATION STANDARDS.—The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

(c) RELIGIOUS ENTITIES.—

(1) IN GENERAL.—This title shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) RELIGIOUS TENETS REQUIREMENT.—Under this title, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

(d) FOOD HANDLING JOBS.—It shall not be a violation of this Act for an employer to refuse to assign or continue to assign any employee with an infectious or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified and for which the employee would sustain no economic damage.

SEC. 104. ILLEGAL USE OF DRUGS AND ALCOHOL.

(a) QUALIFIED INDIVIDUAL WITH A DISABILITY.—For purposes of this title, the term "qualified individual with a disability" shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as a qualified individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c) AUTHORITY OF COVERED ENTITY.—A covered entity—

(1) may prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) may require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) may require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.);

(4) may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5) may, with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that—

(A) employees comply with the standards established in such regulations of the Department of Defense, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Defense);

(B) employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C) employees comply with the standards established in such regulations of the Department of Transportation, if the employees of the covered entity are employed in a transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Transportation).

(d) DRUG TESTING.—

(1) IN GENERAL.—For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

(2) CONSTRUCTION.—Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) RAIL EMPLOYEES.—Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by railroads of authority to—

(1) test railroad employees in, and applicants for, positions involving safety-sensitive duties, as determined by the Secretary of Transportation, for the illegal use of drugs and for on-duty impairment by alcohol; and

(2) remove such persons who test positive pursuant to paragraph (1) from safety-sensitive duties in implementing subsection (c).

SEC. 105. POSTING NOTICES.

Every employer, employment agency, labor organization, or joint labor-management committee covered under this title shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of this Act, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-10).

SEC. 106. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue regulations in an accessible format to carry out this title in accordance with subchapter II of chapter 5 of title 5, United States Code.

SEC. 107. ENFORCEMENT.

(a) Powers, Remedies, and Procedures.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9) shall be the powers, remedies, and procedures this title provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this Act, or regulations promulgated under section 106, concerning employment.

(b) COORDINATION.—The agencies with enforcement authority for actions which allege employment discrimination under this title and under the Rehabilitation Act of 1973 shall develop procedures to ensure that administrative complaints filed under this title and under the Rehabilitation Act of 1973 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this title and the Rehabilitation Act of 1973. Such agencies shall establish such coordinating mechanisms in the regulations implementing this title and the Rehabilitation Act of 1973.

SEC. 108. EFFECTIVE DATE.

This title shall become effective 24 months after the date of enactment.

TITLE II—PUBLIC SERVICES

Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

SEC. 201. DEFINITION.

As used in this title:

(1) PUBLIC ENTITY.—The term "public entity" means—

(A) any State or local government;

(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and

(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

(2) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

SEC. 202. DISCRIMINATION.

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

SEC. 203. ENFORCEMENT.

The remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) shall be the remedies, procedures and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202.

SEC. 204. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall promulgate regulations in an accessible format that implement this subtitle. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223, 229, or 244.

(b) RELATIONSHIP TO OTHER REGULATIONS.—Except for "program accessibility, existing facilities", and "communications", regulations under subsection (a) shall be consistent with this Act and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). With respect to "program accessibility, existing facilities", and "communications", such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under such section 504.

(c) STANDARDS.—Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this subtitle, other than facilities, stations, rail passenger cars, and vehicles covered by subtitle B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504(a) of this Act.

SEC. 205. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this subtitle shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Section 204 shall become effective on the date of enactment of this Act.

Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

SEC. 221. DEFINITIONS.

As used in this part:

(1) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing designated public transportation which is not a fixed route system.

(2) DESIGNATED PUBLIC TRANSPORTATION.—The term "designated public transportation" means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in section 241)) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(3) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

(4) OPERATES.—The term "operates", as used with respect to a fixed route system or demand responsive system, includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.

(5) PUBLIC SCHOOL TRANSPORTATION.—The term "public school transportation" means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

(6) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 222. PUBLIC ENTITIES OPERATING FIXED ROUTE SYSTEMS.

(a) PURCHASE AND LEASE OF NEW VEHICLES.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle to be used on such system, if the solicitation for such purchase or lease is made after the 30th day following the effective date of this subsection and if such bus, rail vehicle, or other vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) PURCHASE AND LEASE OF USED VEHICLES.—Subject to subsection (c)(1), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease, after the 30th day following the effective date of this subsection, a used vehicle for use on such system unless such entity makes demonstrated good faith efforts to purchase or lease a used vehicle for use on such system that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) REMANUFACTURED VEHICLES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system—

(A) to remanufacture a vehicle for use on such system so as to extend its usable life for 5 years or more, which remanufacture begins (or for which the solicitation is made) after the 30th day following the effective date of this subsection; or

(B) to purchase or lease for use on such system a remanufactured vehicle which has been remanufactured so as to extend its usable life for 5 years or more, which purchase or lease occurs after such 30th day and during the period in which the usable life is extended;

unless, after remanufacture, the vehicle is, to the maximum extent feasible, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) EXCEPTION FOR HISTORIC VEHICLES.—

(A) GENERAL RULE.—If a public entity operates a fixed route system any segment of which is included on the National Register of Historic Places and if making a vehicle of historic character to be used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or to purchase or lease a remanufactured

vehicle with) those modifications which are necessary to meet the requirements of paragraph (1) and which do not significantly alter the historic character of such vehicle.

(B) VEHICLES OF HISTORIC CHARACTER DEFINED BY REGULATIONS.—For purposes of this paragraph and section 228(b), a vehicle of historic character shall be defined by the regulations issued by the Secretary to carry out this subsection.

SEC. 223. PARATRANSIT AS A COMPLEMENT TO FIXED ROUTE SERVICE.

(a) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs, that are sufficient to provide to such individuals a level of service (1) which is comparable to the level of designated public transportation services provided to individuals without disabilities using such system; or (2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) ISSUANCE OF REGULATIONS.—Not later than 1 year after the effective date of this subsection, the Secretary shall issue final regulations to carry out this section.

(c) REQUIRED CONTENTS OF REGULATIONS.—

(1) ELIGIBLE RECIPIENTS OF SERVICE.—The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section—

(A)(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system; and

(B) to 1 other individual accompanying the individual with the disability.

For purposes of clauses (i) and (ii) of subparagraph (A), boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

(2) SERVICE AREA.—The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

(3) SERVICE CRITERIA.—Subject to paragraphs (1) and (2), the regulations issued under this section shall establish minimum service criteria for determining the level of services to be required under this section.

(4) UNDUE FINANCIAL BURDEN LIMITATION.—The regulations issued under this section shall provide that, if the public entity is able to demonstrate to the satisfaction of the Secretary that the provision of paratransit and other special transportation services otherwise required under this section would impose an undue financial burden on the public entity, the public entity, notwithstanding any other provision of this section (other than paragraph (5)), shall only be required to provide such services to the extent that providing such services would not impose such a burden.

(5) ADDITIONAL SERVICES.—The regulations issued under this section shall establish circumstances under which the Secretary may require a public entity to provide, notwithstanding paragraph (4), paratransit and other special transportation services under this section beyond the level of paratransit and other special transportation services which would otherwise be required under paragraph (4).

(6) PUBLIC PARTICIPATION.—The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7).

(7) PLANS.—The regulations issued under this section shall require that each public entity which operates a fixed route system—

(A) within 18 months after the effective date of this subsection, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and

(B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.

(8) PROVISION OF SERVICES BY OTHERS.—The regulations issued under this section shall—

(A) require that a public entity submitting a plan to the Secretary under this section identify in the plan any person or other public entity which is providing a paratransit or other special transportation service for individuals with disabilities in the service area to which the plan applies; and

(B) provide that the public entity submitting the plan does not have to provide under the plan such service for individuals with disabilities.

(9) OTHER PROVISIONS.—The regulations issued under this section shall include such other provisions and requirements as the Secretary determines are necessary to carry out the objectives of this section.

(d) REVIEW OF PLAN.—

(1) GENERAL RULE.—The Secretary shall review a plan submitted under this section for the purpose of determining whether or not such plan meets the requirements of this section, including the regulations issued under this section.

(2) DISAPPROVAL.—If the Secretary determines that a plan reviewed under this subsection fails to meet the requirements of this section, the Secretary shall disapprove the plan and notify the public entity which submitted the plan of such disapproval and the reasons therefor.

(3) MODIFICATION OF DISAPPROVED PLAN.—Not later than 90 days after the date of disapproval of a plan under this subsection, the public entity which submitted the plan shall modify the plan to meet the requirements of this section and shall submit to the Secretary, and commence implementation of, such modified plan.

(e) DISCRIMINATION DEFINED.—As used in subsection (a), the term "discrimination" includes—

(1) a failure of a public entity to which the regulations issued under this section apply to submit, or commence implementation of, a plan in accordance with subsections (c)(6) and (c)(7);

(2) a failure of such entity to submit, or commence implementation of, a modified plan in accordance with subsection (d)(3);

(3) submission to the Secretary of a modified plan under subsection (d)(3) which does not meet the requirements of this section; or

(4) a failure of such entity to provide paratransit or other special transportation services in accordance with the plan or modified plan the public entity submitted to the Secretary under this section.

(f) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as preventing a public entity—

(1) from providing paratransit or other special transportation services at a level which is greater than the level of such services which are required by this section,

(2) from providing paratransit or other special transportation services in addition to those paratransit and special transportation services required by this section, or

(3) from providing such services to individuals in addition to those individuals to whom such services are required to be provided by this section.

SEC. 224. PUBLIC ENTITY OPERATING A DEMAND RESPONSIVE SYSTEM.

If a public entity operates a demand responsive system, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for such entity to purchase or lease a new vehicle for use on such system, for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service such system provides to individuals without disabilities.

SEC. 225. TEMPORARY RELIEF WHERE LIFTS ARE UNAVAILABLE.

(a) GRANTING.—With respect to the purchase of new buses, a public entity may apply for, and the Secretary may temporarily relieve such public entity from the obligation under section 222(a) or 224 to purchase new buses that are readily accessible to and usable by individuals with disabilities if such public entity demonstrates to the satisfaction of the Secretary—

(1) that the initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) the unavailability from any qualified manufacturer of hydraulic, electromechanical, or other lifts for such new buses;

(3) that the public entity seeking temporary relief has made good faith efforts to locate a qualified manufacturer to supply the lifts to the manufacturer of such buses in sufficient time to comply with such solicitation; and

(4) that any further delay in purchasing new buses necessary to obtain such lifts would significantly impair transportation services in the community served by the public entity.

(b) DURATION AND NOTICE TO CONGRESS.—Any relief granted under subsection (a) shall be limited in duration by a specified date, and the appropriate committees of Congress shall be notified of any such relief granted.

(c) FRAUDULENT APPLICATION.—If, at any time, the Secretary has reasonable cause to believe that any relief granted under subsection (a) was fraudulently applied for, the Secretary shall—

(1) cancel such relief if such relief is still in effect; and

(2) take such other action as the Secretary considers appropriate.

SEC. 226. NEW FACILITIES.

For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

SEC. 227. ALTERATIONS OF EXISTING FACILITIES.

(a) GENERAL RULE.—With respect to alterations of an existing facility or part thereof used in the provision of designated public transportation services that affect or could affect the usability of the facility or part thereof, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to make such alterations (or to ensure that the alterations are made) in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations. Where the public entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) SPECIAL RULE FOR STATIONS.—

(1) GENERAL RULE.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity that provides designated public transportation to fail, in accordance with the provisions of this subsection, to make key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) RAPID RAIL AND LIGHT RAIL KEY STATIONS.—

(A) ACCESSIBILITY.—Except as otherwise provided in this paragraph, all key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 3-year period beginning on the effective date of this paragraph.

(B) EXTENSION FOR EXTRAORDINARILY EXPENSIVE STRUCTURAL CHANGES.—The Secretary may extend the 3-year period under subparagraph (A) up to a 30-year period for key stations in a rapid rail or light rail system which stations need extraordinarily expensive structural changes to, or replacement of, existing facilities; except that by the last day of the 20th year following the date of the enactment of this Act at least ⅔ of such key stations must be readily accessible to and usable by individuals with disabilities.

(3) PLANS AND MILESTONES.—The Secretary shall require the appropriate public entity to develop and submit to the Secretary a plan for compliance with this subsection—

(A) that reflects consultation with individuals with disabilities affected by such plan and the results of a public hearing and public comments on such plan, and

(B) that establishes milestones for achievement of the requirements of this subsection.

SEC. 228. PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES AND ONE CAR PER TRAIN RULE.

(a) PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES.—

(1) IN GENERAL.—With respect to existing facilities used in the provision of designated public transportation services, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to operate a designated public transportation program or activity conducted in such facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(2) KEY STATIONS.—Paragraph (1) shall not apply to a key station if the portion of such station providing access to the vehicle boarding or disembarking location has not been made readily accessible to and usable by individuals with disabilities who use wheelchairs at that station.

(b) ONE CAR PER TRAIN RULE.—

(1) GENERAL RULE.—Subject to paragraph (2), with respect to 2 or more vehicles operated as a train by a light or rapid rail system, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to fail to have at least 1 vehicle per train that is accessible to individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 5-year period beginning on the effective date of this section.

(2) HISTORIC TRAINS.—In order to comply with paragraph (1) with respect to the remanufacture of a vehicle of historic character which is to be used on a segment of a light or rapid rail system which is included on the National Register of Historic Places, if making such vehicle readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity which operates such system only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of section 222(c)(1) and which do not significantly alter the historic character of such vehicle.

SEC. 229. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part (other than section 223).

(b) STANDARDS.—The regulations issued under this section and section 223 shall include standards applicable to facilities and vehicles covered by this subtitle. The standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

SEC. 230. INTERIM ACCESSIBILITY REQUIREMENTS.

If final regulations have not been issued pursuant to section 229, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under sections 226 and 227, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

SEC. 231. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 222, 223 (other than subsection (a)), 224, 225, 227(b), 228(b), and 229 shall become effective on the date of enactment of this Act.

PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

SEC. 241. DEFINITIONS.

As used in this part:

(1) COMMUTER AUTHORITY.—The term "commuter authority" has the meaning given such term in section 103(8) of the Rail Passenger Service Act (45 U.S.C 502(8));

(2) COMMUTER RAIL TRANSPORTATION.—The term "commuter rail transportation" has the meaning given the term "commuter service" in section 103(9) of the Rail Passenger Service Act (45 U.S.C 502(9));

(3) INTERCITY RAIL TRANSPORTATION.—The term "intercity rail transportation" means transportation provided by the National Railroad Passenger Corporation;

(4) RAIL PASSENGER CAR.—The term "rail passenger car" means, with respect to intercity rail transportation, single-level and bi-level coach cars, single-level and bi-level dining cars, single-level and bi-level sleeping cars, single-level and bi-level lounge cars, and food service cars;

(5) RESPONSIBLE PERSON.—The term "responsible person" means—

(A) in the case of a station more than 50 percent of which is owned by a public entity, such public entity;

(B) in the case of a station more than 50 percent of which is owned by a private party, the persons providing intercity or commuter rail transportation to such station, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(C) in a case where no party owns more than 50 percent of a station, the persons providing intercity or commuter rail transportation to such station and the owners of the station, other than private party owners, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(6) STATION.—The term "station" means the portion of a property located appurtenant to a right-of-way on which intercity or commuter rail transportation is operated, where such portion is used by the general public and is related to the provision of such transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, and, where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but such term does not include flag stops.

SEC. 242. INTERCITY AND COMMUTER RAIL ACTIONS CONSIDERED DISCRIMINATORY.

(a) INTERCITY RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW INTERCITY CARS.—

(A) GENERAL RULE.—Except as otherwise provided in this subsection with respect to individuals who use wheelchairs, it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in intercity rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) SPECIAL RULE FOR SINGLE-LEVEL PASSENGER COACHES FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level passenger coaches shall be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, and a space to fold and store such passenger's wheelchair; and

(iv) have a restroom usable by an individual who uses a wheelchair,

only to the extent provided in paragraph (3).

(C) SPECIAL RULE FOR SINGLE-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level dining cars shall not be required to—

(i) be able to be entered from the station platform by an individual who uses a wheelchair; or

(ii) have a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger.

(D) SPECIAL RULE FOR BI-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Bi-level dining cars shall not be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, or a space to fold and store such passenger's wheelchair; or

(iv) have a restroom usable by an individual who uses a wheelchair.

(3) ACCESSIBILITY OF SINGLE-LEVEL COACHES.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have on each train which includes one or more single-level rail passenger coaches—

(i) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than one-half of the number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than one-half of the number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 5 years after the date of enactment of this Act; and

(ii) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than the total number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than the total number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 10 years after the date of enactment of this Act.

(B) LOCATION.—Spaces required by subparagraph (A) shall be located in single-level rail passenger coaches or food service cars.

(C) LIMITATION.—Of the number of spaces required on a train by subparagraph (A), not more than two spaces to park and secure wheelchairs nor more than two spaces to fold and store wheelchairs shall be located in any one coach or food service car.

(D) OTHER ACCESSIBILITY FEATURES.—Single-level rail passenger coaches and food service cars on which the spaces required by subparagraph (A) are located shall have a restroom usable by an individual who uses a wheelchair and shall be able to be entered from the station platform by an individual who uses a wheelchair.

(4) FOOD SERVICE.—

(A) SINGLE-LEVEL DINING CARS.—On any train in which a single-level dining car is used to provide food service—

(i) if such single-level dining car was purchased after the date of enactment of this Act, table service in such car shall be provided to a passenger who uses a wheelchair if—

(I) the car adjacent to the end of the dining car through which a wheelchair may enter is itself accessible to a wheelchair;

(II) such passenger can exit to the platform from the car such passenger occupies, move down the platform, and enter the adjacent accessible car described in subclause (I) without the necessity of the train being moved within the station; and

(III) space to park and secure a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to remain in a wheelchair), or space to store and fold a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to transfer to a dining car seat); and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

Unless not practicable, a person providing intercity rail transportation shall place an accessible car adjacent to the end of a dining car described in clause (i) through which an individual who uses a wheelchair may enter.

(B) BI-LEVEL DINING CARS.—On any train in which a bi-level dining car is used to provide food service—

(i) if such train includes a bi-level lounge car purchased after the date of enactment of this Act, table service in such lounge car shall be provided to individuals who use wheelchairs and to other passengers; and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

(b) COMMUTER RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides commuter rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW COMMUTER RAIL CARS.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in commuter rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the

Secretary of Transportation in regulations issued under section 244.

(B) ACCESSIBILITY.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), a requirement that a rail passenger car used in commuter rail transportation be accessible to or readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, shall not be construed to require—

(i) a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger;

(ii) space to fold and store a wheelchair; or

(iii) a seat to which a passenger who uses a wheelchair can transfer.

(c) USED RAIL CARS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a used rail passenger car for use in intercity or commuter rail transportation, unless such person makes demonstrated good faith efforts to purchase or lease a used rail car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(d) REMANUFACTURED RAIL CARS.—

(1) REMANUFACTURING.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to remanufacture a rail passenger car for use in intercity or commuter rail transportation so as to extend its usable life for 10 years or more, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) PURCHASE OR LEASE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a remanufactured rail passenger car for use in intercity or commuter rail transportation unless such car was remanufactured in accordance with paragraph (1).

(e) STATIONS.—

(1) NEW STATIONS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to build a new station for use in intercity or commuter rail transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) EXISTING STATIONS.—

(A) FAILURE TO MAKE READILY ACCESSIBLE.—

(i) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a responsible person to fail to make existing stations in the intercity rail transportation system, and existing key stations in commuter rail transportation systems, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(ii) PERIOD FOR COMPLIANCE.—

(I) INTERCITY RAIL.—All stations in the intercity rail transportation system shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable, but in no event later than 20 years after the date of enactment of this Act.

(II) COMMUTER RAIL.—Key stations in commuter rail transportation systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than 3 years after the date of enactment of this Act, except that the time limit may be extended by the Secretary of Transportation up to 20 years after the date of enactment of this Act in a case where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

(iii) DESIGNATION OF KEY STATIONS.—Each commuter authority shall designate the key stations in its commuter rail transportation system, in consultation with individuals with disabilities and organizations representing such individuals, taking into consideration such factors as high ridership and whether such station serves as a transfer or feeder station. Before the final designation of key stations under this clause, a commuter authority shall hold a public hearing.

(iv) PLANS AND MILESTONES.—The Secretary of Transportation shall require the appropriate person to develop a plan for carrying out this subparagraph that reflects consultation with individuals with disabilities affected by such plan and that establishes milestones for achievement of the requirements of this subparagraph.

(B) REQUIREMENT WHEN MAKING ALTERATIONS.—

(i) GENERAL RULE.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations of an existing station or part thereof in the intercity or commuter rail transportation systems that affect or could affect the usability of the station or part thereof, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the altered portions of the station are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations.

(ii) ALTERATIONS TO A PRIMARY FUNCTION AREA.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations that affect or could affect the usability of or access to an area of the station containing a primary function, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(C) REQUIRED COOPERATION.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for an owner, or person in control, of a station governed by subparagraph (A) or (B) to fail to provide reasonable cooperation to a responsible person with respect to such station in that responsible person's efforts to comply with such subparagraph. An owner, or person in control, of a station shall be liable to a responsible person for any failure to provide reasonable cooperation as required by this subparagraph. Failure to receive reasonable cooperation required by this subparagraph shall not be a defense to a claim of discrimination under this Act.

SEC. 243. CONFORMANCE OF ACCESSIBILITY STANDARDS.

Accessibility standards included in regulations issued under this part shall be consistent with the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board under section 504(a) of this Act.

SEC. 244. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part.

SEC. 245. INTERIM ACCESSIBILITY REQUIREMENTS.

(a) STATIONS.—If final regulations have not been issued pursuant to section 244, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities as required under section 242(e), except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(b) RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to section 244, a person shall be considered to have complied with the requirements of section 242(a) through (d) that a rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such cars, to the extent that such laws and regulations are not inconsistent with this part and are in effect at the time such design is substantially completed.

SEC. 246. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 242 and 244 shall become effective on the date of enactment of this Act.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

SEC. 301. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The term "commerce" means travel, trade, traffic, commerce, transportation, or communication—

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) COMMERCIAL FACILITIES.—The term "commercial facilities" means facilities—

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 242 or covered under this title, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.).

(3) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

(4) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) PRIVATE ENTITY.—The term "private entity" means any entity other than a public entity (as defined in section 201(1)).

(7) PUBLIC ACCOMMODATION.—The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce—

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) RAIL AND RAILROAD.—The terms "rail" and "railroad" have the meaning given the term "railroad" in section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)).

(9) READILY ACHIEVABLE.—The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include—

(A) the nature and cost of the action needed under this Act;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(10) SPECIFIED PUBLIC TRANSPORTATION.—The term "specified public transportation" means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(11) VEHICLE.—The term "vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 242 or covered under this title.

SEC. 302. PROHIBITION OF DISCRIMINATION BY PUBLIC ACCOMMODATIONS.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) CONSTRUCTION.—

(1) GENERAL PROHIBITION.—

(A) ACTIVITIES.—

(i) DENIAL OF PARTICIPATION.—It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) PARTICIPATION IN UNEQUAL BENEFIT.—It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) SEPARATE BENEFIT.—It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) INDIVIDUAL OR CLASS OF INDIVIDUALS.—For purposes of clauses (i) through (iii) of this subparagraph, the term "individual or class of individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) INTEGRATED SETTINGS.—Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) OPPORTUNITY TO PARTICIPATE.—Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) ADMINISTRATIVE METHODS.—An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) ASSOCIATION.—It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) SPECIFIC PROHIBITIONS.—

(A) DISCRIMINATION.—For purposes of subsection (a), discrimination includes—

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, ad-

vantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) FIXED ROUTE SYSTEM.—

(i) ACCESSIBILITY.—It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 304 to purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) EQUIVALENT SERVICE.—If a private entity which operates a fixed route system and which is not subject to section 304 purchases or leases a vehicle with a seating capacity of 16 passengers or less (including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) DEMAND RESPONSIVE SYSTEM.—For purposes of subsection (a), discrimination includes—

(i) a failure of a private entity which operates a demand responsive system and which is not subject to section 304 to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations are made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(D) OVER-THE-ROAD BUSES.—

(i) LIMITATION ON APPLICABILITY.—Subparagraphs (B) and (C) do not apply to over-the-road buses.

(ii) ACCESSIBILITY REQUIREMENTS.—For purposes of subsection (a), discrimination includes (I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2) by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and (II) any other failure of such entity to comply with such regulations.

(3) SPECIFIC CONSTRUCTION.—Nothing in this title shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

SEC. 303. NEW CONSTRUCTION AND ALTERATIONS IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES.

(a) APPLICATION OF TERM.—Except as provided in subsection (b), as applied to public accommodations and commercial facilities, discrimination for purposes of section 302(a) includes—

(1) a failure to design and construct facilities for first occupancy later than 30 months after the date of enactment of this Act that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this title; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) ELEVATOR.—Subsection (a) shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

SEC. 304. PROHIBITION OF DISCRIMINATION IN SPECIFIED PUBLIC TRANSPORTATION SERVICES PROVIDED BY PRIVATE ENTITIES.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.

(b) CONSTRUCTION.—For purposes of subsection (a), discrimination includes—

(1) the imposition or application by a entity described in subsection (a) of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless such criteria can be shown to be necessary for the provision of the services being offered;

(2) the failure of such entity to—

(A) make reasonable modifications consistent with those required under section 302(b)(2)(A)(ii);

(B) provide auxiliary aids and services consistent with the requirements of section 302(b)(2)(A)(iii); and

(C) remove barriers consistent with the requirements of section 302(b)(2)(A) and with the requirements of section 303(a)(2);

(3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; except that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(4)(A) the purchase or lease by such entity of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2); and

(B) any other failure of such entity to comply with such regulations; and

(5) the purchase or lease by such entity of a new van with a seating capacity of less than 8 passengers, including the driver, which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section that is not readily accessible to or usable by individuals with disabilities, including individuals who use wheelchairs; except that the new van need not be readily accessible to and usable by such individuals if the entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(6) the purchase or lease by such entity of a new rail passenger car that is to be used to provide specified public transportation, and for which a solicitation is made later than 30 days after the effective date of this paragraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(7) the remanufacture by such entity of a rail passenger car that is to be used to provide specified public transportation so as to extend its usable life for 10 years or more, or the purchase or lease by such entity of such a rail car, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with

disabilities, including individuals who use wheelchairs.

(c) HISTORICAL OR ANTIQUATED CARS.—

(1) EXCEPTION.—To the extent that compliance with subsection (b)(2)(C) or (b)(7) would significantly alter the historic or antiquated character of a historical or antiquated rail passenger car, or a rail station served exclusively by such cars, or would result in violation of any rule, regulation, standard, or order issued by the Secretary of Transportation under the Federal Railroad Safety Act of 1970, such compliance shall not be required.

(2) DEFINITION.—As used in this subsection, the term "historical or antiquated rail passenger car" means a rail passenger car—

(A) which is not less than 30 years old at the time of its use for transporting individuals;

(B) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; and

(C) which—

(i) has a consequential association with events or persons significant to the past; or

(ii) embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past, or to represent a time period which has passed.

SEC. 305. STUDY.

(a) PURPOSES.—The Office of Technology Assessment shall undertake a study to determine—

(1) the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service; and

(2) the most cost-effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options.

(b) CONTENTS.—The study shall include, at a minimum, an analysis of the following:

(1) The anticipated demand by individuals with disabilities for accessible over-the-road buses and over-the-road bus service.

(2) The degree to which such buses and service, including any service required under sections 304(b)(4) and 306(a)(2), are readily accessible to and usable by individuals with disabilities.

(3) The effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

(4) The cost of providing accessible over-the-road buses and bus service to individuals with disabilities, including consideration of recent technological and cost saving developments in equipment and devices.

(5) Possible design changes in over-the-road buses that could enhance accessibility, including the installation of accessible restrooms which do not result in a loss of seating capacity.

(6) The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of such requirements on such service to rural communities.

(c) ADVISORY COMMITTEE.—In conducting the study required by subsection (a), the Office of Technology Assessment shall establish an advisory committee, which shall consist of—

(1) members selected from among private operators and manufacturers of over-the-road buses;

(2) members selected from among individuals with disabilities, particularly individuals who use wheelchairs, who are potential riders of such buses; and

(3) members selected for their technical expertise on issues included in the study, including manufacturers of boarding assistance equipment and devices.

The number of members selected under each of paragraphs (1) and (2) shall be equal, and the total number of members selected under paragraphs (1) and (2) shall exceed the number of members selected under paragraph (3).

(d) DEADLINE.—The study required by subsection (a), along with recommendations by the Office of Technology Assessment, including any policy options for legislative action, shall be submitted to the President and Congress within 36 months after the date of the enactment of this Act. If the President determines that compliance with the regulations issued pursuant to section 306(a)(2)(B) on or before the applicable deadlines specified in section 306(a)(2)(B) will result in a significant reduction in intercity over-the-road bus service, the President shall extend each such deadline by 1 year.

(e) REVIEW.—In developing the study required by subsection (a), the Office of Technology Assessment shall provide a preliminary draft of such study to the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792). The Board shall have an opportunity to comment on such draft study, and any such comments by the Board made in writing within 120 days after the Board's receipt of the draft study shall be incorporated as part of the final study required to be submitted under subsection (d).

SEC. 306. REGULATIONS.

(a) TRANSPORTATION PROVISIONS.—

(1) GENERAL RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 302(b)(2)(B) and (C) and to carry out section 304 (other than subsection (b)(4)).

(2) SPECIAL RULES FOR PROVIDING ACCESS TO OVER-THE-ROAD BUSES.—

(A) INTERIM REQUIREMENTS—

(i) ISSUANCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require each private entity which uses an over-the-road bus to provide transportation of individuals to provide accessibility to such bus; except that such regulations shall not require any structural changes in over-the-road buses in order to provide access to individuals who use wheelchairs during the effective period of such regulations and shall not require the purchase of boarding assistance devices to provide access to such individuals.

(ii) EFFECTIVE PERIOD.—The regulations issued pursuant to this subparagraph shall be effective until the effective date of the regulations issued under subparagraph (B).

(B) FINAL REQUIREMENT.—

(i) REVIEW OF STUDY AND INTERIM REQUIREMENTS.—The Secretary shall review the study submitted under section 305 and the regulations issued pursuant to subparagraph (A).

(ii) ISSUANCE.—Not later than 1 year after the date of the submission of the study under section 305, the Secretary shall issue in an accessible format new regulations to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require, taking into account the purposes of the study under section 305 and any recommendations resulting from such study, each private entity which uses an over-the-road bus to provide transportation to individuals to provide accessibility to such bus to individuals with disabilities, including individuals who use wheelchairs.

(iii) EFFECTIVE PERIOD.—Subject to section 305(d), the regulations issued pursuant to this subparagraph shall take effect—

(I) with respect to small providers of transportation (as defined by the Secretary), 7 years after the date of the enactment of this Act; and

(II) with respect to other providers of transportation, 6 years after such date of enactment.

(C) LIMITATION ON REQUIRING INSTALLATION OF ACCESSIBLE RESTROOMS.—The regulations issued pursuant to this paragraph shall not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

(3) STANDARDS.—The regulations issued pursuant to this subsection shall include standards applicable to facilities and vehicles covered by sections 302(b)(2) and 304.

(b) OTHER PROVISIONS.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall issue regulations in an accessible format to carry out the provisions of this title not referred to in subsection (a) that include standards applicable to facilities and vehicles covered under section 302.

(c) CONSISTENCY WITH ATBCB GUIDELINES.—Standards included in regulations issued under subsections (a) and (b) shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

(d) INTERIM ACCESSIBILITY STANDARDS.—

(1) FACILITIES.—If final regulations have not been issued pursuant to this section, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under this section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under section 303, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(2) VEHICLES AND RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to this section, a private entity shall be considered to have complied with the requirements of this title, if any, that a vehicle or rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such vehicle or car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such

supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such vehicles or cars, to the extent that such laws and regulations are not inconsistent with this title and are in effect at the time such design is substantially completed.

SEC. 307. EXEMPTIONS FOR PRIVATE CLUBS AND RELIGIOUS ORGANIZATIONS.

The provisions of this title shall not apply to private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000-a(e)) or to religious organizations or entities controlled by religious organizations, including places of worship.

SEC. 308. ENFORCEMENT.

(a) IN GENERAL.—

(1) AVAILABILITY OF REMEDIES AND PROCEDURES.—The remedies and procedures set forth in section 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-3(a)) are the remedies and procedures this title provides to any person who is being subjected to discrimination on the basis of disability in violation of this title or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

(2) INJUNCTIVE RELIEF.—In the case of violations of sections 302(b)(2)(A)(iv) and section 303(a), injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this title. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this title.

(b) ENFORCEMENT BY THE ATTORNEY GENERAL.—

(1) DENIAL OF RIGHTS.—

(A) DUTY TO INVESTIGATE.—

(i) IN GENERAL.—The Attorney General shall investigate alleged violations of this title, and shall undertake periodic reviews of compliance of covered entities under this title.

(ii) ATTORNEY GENERAL CERTIFICATION.—On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this Act for the accessibility and usability of covered facilities under this title. At any enforcement proceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this Act.

(B) POTENTIAL VIOLATION.—If the Attorney General has reasonable cause to believe that—

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this title; or

(ii) any person or group of persons has been discriminated against under this title and such discrimination raises an issue of general public importance,

the Attorney General may commence a civil action in any appropriate United States district court.

(2) AUTHORITY OF COURT.—In a civil action under paragraph (1)(B), the court—

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this title—

(i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an amount—

(i) not exceeding $50,000 for a first violation; and

(ii) not exceeding $100,000 for any subsequent violation.

(3) SINGLE VIOLATION.—For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) PUNITIVE DAMAGES.—For purposes of subsection (b)(2)(B), the term "monetary damages" and "such other relief" does not include punitive damages.

(5) JUDICIAL CONSIDERATION.—In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this Act by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

SEC. 309. EXAMINATIONS AND COURSES.

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

SEC. 310. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), and (c), this title shall become effective 18 months after the date of the enactment of this Act.

(b) CIVIL ACTION.—Except for any civil action brought for a violation of section 303, no civil action shall be brought—

(1) during the first 6 months after the effective date, against businesses that employ 25 or fewer employees and have gross receipts of $1,000,000 or less; and

(2) during the first year after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of $500,000 or less.

(c) EXCEPTION.—Sections 302(a) for purposes of section 302(b)(2) (B) and (C) only, 304(a) for purposes of section 304(b)(3) only, 304(b)(3), 305, and 306 shall take effect on the date of the enactment of this Act.

TITLE IV—TELECOMMUNICATIONS

SEC. 401. TELECOMMUNICATIONS RELAY SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

(a) TELECOMMUNICATIONS.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 225. TELECOMMUNICATIONS SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

"(a) DEFINITIONS.—As used in this section—

"(1) COMMON CARRIER OR CARRIER.—The term 'common carrier' or 'carrier' includes any common carrier engaged in interstate communication by wire or radio as defined in section 3(h) and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b).

"(2) TDD.—The term 'TDD' means a Telecommunications Device for the Deaf, which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

"(3) TELECOMMUNICATIONS RELAY SERVICES.—The term 'telecommunications relay services' means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

"(b) AVAILABILITY OF TELECOMMUNICATIONS RELAY SERVICES.—

"(1) IN GENERAL.—In order to carry out the purposes established under section 1, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

"(2) USE OF GENERAL AUTHORITY AND REMEDIES.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this Act by a common carrier engaged in interstate communication.

"(c) PROVISION OF SERVICES.—Each common carrier providing telephone voice transmission services shall, not later than 3 years after the date of enactment of this section, provide in compliance with the reg-

ulations prescribed under this section, within the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations—

"(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the Commission's regulations under subsection (d); or

"(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) for such State, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under subsection (f) for such State.

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Commission shall, not later than 1 year after the date of enactment of this section, prescribe regulations to implement this section, including regulations that—

"(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

"(B) establish minimum standards that shall be met in carrying out subsection (c);

"(C) require that telecommunications relay services operate every day for 24 hours per day;

"(D) require that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination;

"(E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;

"(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

"(G) prohibit relay operators from intentionally altering a relayed conversation.

"(2) TECHNOLOGY.—The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 7(a) of this Act, the use of existing technology and do not discourage or impair the development of improved technology.

"(3) JURISDICTIONAL SEPARATION OF COSTS.—

"(A) IN GENERAL.—Consistent with the provisions of section 410 of this Act, the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

"(B) RECOVERING COSTS.—Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f), a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

"(e) ENFORCEMENT.—

"(1) IN GENERAL.—Subject to subsections (f) and (g), the Commission shall enforce this section.

"(2) COMPLAINT.—The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

"(f) CERTIFICATION.—

"(1) STATE DOCUMENTATION.—Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

"(2) REQUIREMENTS FOR CERTIFICATION.—After review of such documentation, the Commission shall certify the State program if the Commission determines that—

"(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d); and

"(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

"(3) METHOD OF FUNDING.—Except as provided in subsection (d), the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

"(4) SUSPENSION OR REVOCATION OF CERTIFICATION.—The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

"(g) COMPLAINT.—

"(1) REFERRAL OF COMPLAINT.—If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) is in effect, the Commission shall refer such complaint to such State.

"(2) JURISDICTION OF COMMISSION.—After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if—

"(A) final action under such State program has not been taken on such complaint by such State—

"(i) within 180 days after the complaint is filed with such State; or

"(ii) within a shorter period as prescribed by the regulations of such State; or

"(B) the Commission determines that such State program is no longer qualified for certification under subsection (f).".

(b) CONFORMING AMENDMENTS.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended—

(1) in section 2(b) (47 U.S.C. 152(b)), by striking "section 224" and inserting "sections 224 and 225"; and

(2) in section 221(b) (47 U.S.C. 221(b)), by striking "section 301" and inserting "sections 225 and 301".

SEC. 402. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

Section 711 of the Communications Act of 1934 is amended to read as follows:

"SEC. 711. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

"Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee—

"(1) shall not be required to supply closed captioning for any such announcement that fails to include it; and

"(2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement.".

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. CONSTRUCTION.

(a) IN GENERAL.—Except as otherwise provided in this Act, nothing in this Act shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) RELATIONSHIP TO OTHER LAWS.—Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by title I, in transportation covered by title II or III, or in places of public accommodation covered by title III.

(c) INSURANCE.—Titles I through IV of this Act shall not be construed to prohibit or restrict—

(1) an insurer, hospital or medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(2) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(3) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of title I and III.

(d) ACCOMMODATIONS AND SERVICES.—Nothing in this Act shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

SEC. 502. STATE IMMUNITY.

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

SEC. 503. PROHIBITION AGAINST RETALIATION AND COERCION.

(a) RETALIATION.—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) INTERFERENCE, COERCION, OR INTIMIDATION.—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) REMEDIES AND PROCEDURES.—The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to title I, title II and title III, respectively.

SEC. 504. REGULATIONS BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ISSUANCE OF GUIDELINES.—Not later than 9 months after the date of enactment of this Act, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of titles II and III of this Act.

(b) CONTENTS OF GUIDELINES.—The supplemental guidelines issued under subsection (a) shall establish additional requirements, consistent with this Act, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities.

(c) QUALIFIED HISTORIC PROPERTIES.—

(1) IN GENERAL.—The supplemental guidelines issued under subsection (a) shall include procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards.

(2) SITES ELIGIBLE FOR LISTING IN NATIONAL REGISTER.—With respect to alterations of buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards.

(3) OTHER SITES.—With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall establish procedures equivalent to those established by 4.1.7(1)(b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

SEC. 505. ATTORNEY'S FEES.

In any action or administrative proceeding commenced pursuant to this Act, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

SEC. 506. TECHNICAL ASSISTANCE.

(a) PLAN FOR ASSISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communications Commission, shall develop a plan to assist entities covered under this Act, and other Federal agencies, in understanding the responsibility of such entities and agencies under this Act.

(2) PUBLICATION OF PLAN.—The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act).

(b) AGENCY AND PUBLIC ASSISTANCE.—The Attorney General may obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) IMPLEMENTATION.—

(1) RENDERING ASSISTANCE.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act may render technical assistance to individuals and institutions that have rights or duties under the respective title or titles for which such agency has responsibility.

(2) IMPLEMENTATION OF TITLES.—

(A) TITLE I.—The Equal Employment Opportunity Commission and the Attorney General shall implement the plan for assistance developed under subsection (a), for title I.

(B) TITLE II.—

(i) SUBTITLE A.—The Attorney General shall implement such plan for assistance for subtitle A of title II.

(ii) SUBTITLE B.—The Secretary of Transportation shall implement such plan for assistance for subtitle B of title II.

(C) TITLE III.—The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for title III, except for section 304, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) TITLE IV.—The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) TECHNICAL ASSISTANCE MANUALS.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance manuals to individuals or entities with rights or duties under this Act no later than six months after applicable final regulations are published under titles I, II, III, and IV.

(d) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—Each Federal agency that has responsibility under subsection (c)(2) for implementing this Act may make grants or award contracts to effectuate the purposes of this section. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and associations representing individuals who have rights or duties under this Act. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients of grants described in this paragraph.

(2) DISSEMINATION OF INFORMATION.—Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this Act and to provide information and technical assistance about techniques for effective compliance with this Act.

(e) FAILURE TO RECEIVE ASSISTANCE.—An employer, public accommodation, or other entity covered under this Act shall not be excused from compliance with the requirements of this Act because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

SEC. 507. FEDERAL WILDERNESS AREAS.

(a) STUDY.—The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) SUBMISSION OF REPORT.—Not later than 1 year after the enactment of this Act, the National Council on Disability shall submit the report required under subsection (a) to Congress.

(c) SPECIFIC WILDERNESS ACCESS.—Congress reaffirms that nothing in the Wilderness Act is to be construed as prohibiting use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, but no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

SEC. 508. TRANSVESTITES.

For the purposes of this Act, the term "disabled" or "disability" shall not apply to an individual solely because that individual is a transvestite.

SEC. 509. CONGRESSIONAL INCLUSION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act or of law, the purposes of this Act shall, subject to subsections (b) through (d), apply in their entirety to the Senate, the House of Representatives, and all the instrumentalities of the Congress, or either House thereof.

(b) EMPLOYMENT IN THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) ADMINISTRATION.—

(A) In the administration of this subsection, the remedies and procedures made applicable pursuant to the resolution described in subparagraph (B) shall apply exclusively.

(B) The resolution referred to in subparagraph (A) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(3) EXERCISE OF RULEMAKING POWER.—The provisions of paragraph (2) of this subsection are enacted by the Congress as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) CONGRESSIONAL MATTERS OTHER THAN EMPLOYMENT.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of the Congress regarding matters other than employment.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY ARCHITECT OF THE CAPITOL.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively, after approval in accordance with paragraph (3).

(3) APPROVAL BY CONGRESSIONAL LEADERSHIP.—For purposes of paragraph (2), the Architect of the Capitol shall submit proposed remedies and procedures to the Speaker of the House of Representatives and to an appropriate officer of the Senate, as designated by the Senate. The remedies and procedures shall be effective upon the approval of the Speaker, after consultation with the House Office Building Commission, and the approval of the appropriate officer of the Senate.

(d) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

SEC. 510. ILLEGAL USE OF DRUGS.

(a) IN GENERAL.—For purposes of this Act, the term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as an individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) HEALTH AND OTHER SERVICES.—Notwithstanding subsection (a) and section 511(b)(3), an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) DEFINITION OF ILLEGAL USE OF DRUGS.—

(1) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

SEC. 511. DEFINITIONS.

(a) HOMOSEXUALITY AND BISEXUALITY.—For purposes of the definition of "disability" in section 3(2), homosexuality and bisexuality are not impairments and as such are not disabilities under this Act.

(b) CERTAIN CONDITIONS.—Under this Act, the term "disability" shall not include—

(1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) compulsive gambling, kleptomania, or pyromania; or

(3) psychoactive substance use disorders resulting from current illegal use of drugs.

SEC. 512. AMENDMENTS TO THE REHABILITATION ACT.

(a) DEFINITION OF HANDICAPPED INDIVIDUAL.—Section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) is amended by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following subparagraph:

"(C)(i) For purposes of title V, the term 'individual with handicaps' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

"(ii) Nothing in clause (i) shall be construed to exclude as an individual with handicaps an individual who—

"(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

"(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

"(III) is erroneously regarded as engaging in such use, but is not engaging in such use, except that it shall not be a violation of this Act for a ccvered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

"(iii) Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under title I, II and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

"(iv) For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any handicapped student who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against nonhandicapped students. Furthermore, the due process procedures at 34 CFR 104.36 shall not apply to such disciplinary actions.

"(v) For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with handicaps' does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.".

(b) DEFINITION OF ILLEGAL DRUGS.—Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is amended by adding at the end the following new paragraph:

"(22)(A) The term 'drug' means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

"(B) The term 'illegal use of drugs' means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.".

(c) CONFORMING AMENDMENTS.—Section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B)) is amended—

(1) in the first sentence, by striking "Subject to the second sentence of this subparagraph," and inserting "Subject to subparagraphs (C) and (D),"; and

(2) by striking the second sentence.

SEC. 513. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under this Act.

SEC. 514. SEVERABILITY.

Should any provision in this Act be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of the Act.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. WALKER. Mr. Speaker, reserving the right to object, I just want to know what it is we have been doing. It has been impossible to hear in the House.

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

Mr. WALKER. Further reserving the right to object, I am happy to yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, in response to the gentleman's question, what the motion does is it substitutes the House-passed language, the Coelho bill that we have just adopted, into the Senate bill as the text of the Senate bill. That is all it does.

Mr. WALKER. Mr. Speaker, further reserving the right to object, is that for the purpose of sending it back to the Senate? Is that correct?

Mr. HOYER. The gentleman is correct.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. HOYER].

The motion was agreed to.

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

A similar House bill, H.R. 2273, was laid on the table.

PERSONAL EXPLANATION

Mr. HUTTO. Mr. Speaker, I was in my district this morning conducting official business. Therefore, I was unable to vote on two of the amendments to H.R. 2273.

Had I been present I would have voted "aye" on the amendment offered by Mr. LIPINSKI and "aye" on the amendment offered by Mr. SHUSTER.

PERSONAL EXPLANATION

Mr. OBERSTAR. Mr. Speaker, last month, when the House of Representatives considered the bill H.R. 2273, the Americans with Disabilities Act, my vote was not recorded on several amendments.

During the consideration of this historic legislation, I was in Indiana to attend the graduation ceremonies for my son, Ted, at Notre Dame University.

Had I been present, I would have voted "nay" on the Olin amendment, rollcall vote 117. I would have voted "nay" on the Chapman amendment, rollcall vote 118. I would have voted "nay" on the Lipinski amendment, rollcall vote 119. I would have voted "nay" on the Shuster amendment, rollcall vote 120. I would have voted "nay" on the Sensenbrenner amendment, rollcall vote 121.

PETROGLYPH NATIONAL MONUMENT ESTABLISHMENT ACT OF 1990

The SPEAKER pro tempore. The unfinished business is the question de novo of suspending the rules and passing the Senate bill, S. 286, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 286, as amended.

The question was taken.

Mr. VENTO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 17, as follows:

[Roll No. 124]

YEAS—415

Ackerman	Crane	Hamilton
Anderson	Crockett	Hancock
Andrews	Dannemeyer	Hansen
Annunzio	Darden	Harris
Anthony	Davis	Hastert
Applegate	de la Garza	Hatcher
Archer	DeFazio	Hayes (IL)
Armey	DeLay	Hayes (LA)
Aspin	Dellums	Hefley
Atkins	Derrick	Hefner
AuCoin	DeWine	Henry
Baker	Dickinson	Herger
Ballenger	Dicks	Hertel
Barnard	Dingell	Hiler
Bartlett	Dixon	Hoagland
Barton	Donnelly	Hochbrueckner
Bateman	Dorgan (ND)	Holloway
Bates	Dornan (CA)	Hopkins
Beilenson	Douglas	Horton
Bennett	Downey	Houghton
Bentley	Dreier	Hoyer
Bereuter	Duncan	Hubbard
Berman	Durbin	Huckaby
Bevill	Dwyer	Hughes
Bilbray	Dymally	Hunter
Bilirakis	Dyson	Hutto
Billey	Early	Hyde
Boehlert	Eckart	Inhofe
Boggs	Edwards (CA)	Ireland
Bonior	Edwards (OK)	Jacobs
Borski	Emerson	James
Bosco	Engel	Jenkins
Boucher	English	Johnson (CT)
Boxer	Erdreich	Johnson (SD)
Brennan	Espy	Johnston
Brooks	Evans	Jones (GA)
Broomfield	Fascell	Jones (NC)
Browder	Fawell	Jontz
Brown (CA)	Fazio	Kanjorski
Brown (CO)	Feighan	Kaptur
Bruce	Fields	Kasich
Bryant	Fish	Kastenmeier
Buechner	Flake	Kennedy
Bunning	Foglietta	Kennelly
Burton	Ford (MI)	Kildee
Bustamante	Frank	Kleczka
Byron	Frenzel	Kolter
Callahan	Frost	Kostmayer
Campbell (CA)	Gallegly	Kyl
Campbell (CO)	Gallo	LaFalce
Cardin	Gaydos	Lagomarsino
Carper	Gejdenson	Lancaster
Carr	Gekas	Lantos
Chandler	Gephardt	Laughlin
Chapman	Geren	Leach (IA)
Clarke	Gibbons	Lehman (CA)
Clay	Gillmor	Lehman (FL)
Clement	Gilman	Lent
Clinger	Gingrich	Levin (MI)
Coble	Glickman	Levine (CA)
Coleman (MO)	Gonzalez	Lewis (CA)
Coleman (TX)	Goodling	Lewis (FL)
Collins	Gordon	Lewis (GA)
Combest	Goss	Lightfoot
Condit	Gradison	Lipinski
Conte	Grandy	Livingston
Conyers	Grant	Lloyd
Cooper	Gray	Long
Costello	Green	Lowery (CA)
Coughlin	Guarini	Lowey (NY)
Courter	Gunderson	Luken, Thomas
Cox	Hall (OH)	Machtley
Coyne	Hall (TX)	Madigan
Manton	Penny	Smith (NJ)
Markey	Perkins	Smith (TX)
Marlenee	Petri	Smith (VT)
Martin (NY)	Pickett	Smith, Denny (OR)
Martinez	Pickle	Smith, Robert (NH)
Matsui	Porter	Smith, Robert (OR)
Mavroules	Poshard	Snowe
Mazzoli	Price	Solarz
McCandless	Pursell	Solomon
McCloskey	Quillen	Spratt
McCollum	Rahall	Staggers
McCrery	Rangel	Stallings
McCurdy	Ravenel	Stangeland
McDade	Ray	Stark
McDermott	Regula	Stearns
McEwen	Rhodes	Stenholm
McGrath	Richardson	Stokes
McHugh	Ridge	Studds
McMillan (NC)	Rinaldo	Stump
McMillen (MD)	Ritter	Sundquist
McNulty	Roberts	Swift
Meyers	Robinson	Synar
Mfume	Roe	Tallon
Michel	Rogers	Tanner
Miller (CA)	Rohrabacher	Tauke
Miller (OH)	Ros-Lehtinen	Tauzin
Miller (WA)	Rose	Taylor
Mineta	Rostenkowski	Thomas (GA)
Moakley	Roth	Thomas (WY)
Molinari	Roukema	Torres
Mollohan	Rowland (CT)	Torricelli
Montgomery	Rowland (GA)	Towns
Moody	Roybal	Traficant
Moorhead	Russo	Traxler
Morella	Sabo	Udall
Morrison (CT)	Saiki	Unsoeld
Morrison (WA)	Sangmeister	Upton
Mrazek	Sarpalius	Valentine
Murphy	Savage	Vander Jagt
Murtha	Sawyer	Vento
Myers	Saxton	Visclosky
Nagle	Schaefer	Volkmer
Natcher	Scheuer	Vucanovich
Neal (MA)	Schiff	Walgren
Neal (NC)	Schneider	Walker
Nielson	Schroeder	Walsh
Nowak	Schuette	Waxman
Oakar	Schulze	Weber
Oberstar	Schumer	Weiss
Obey	Sensenbrenner	Weldon
Olin	Serrano	Wheat
Ortiz	Sharp	Whittaker
Owens (NY)	Shaw	Williams
Owens (UT)	Shays	Wise
Oxley	Shumway	Wolf
Packard	Shuster	Wolpe
Pallone	Sikorski	Wyden
Panetta	Sisisky	Wylie
Parker	Skaggs	Yates
Parris	Skeen	Yatron
Pashayan	Skelton	Young (AK)
Patterson	Slattery	Young (FL)
Paxon	Slaughter (NY)	
Payne (NJ)	Slaughter (VA)	
Payne (VA)	Smith (FL)	
Pease	Smith (IA)	
Pelosi	Smith (NE)	

NAYS—0

NOT VOTING—17

Alexander	Kolbe	Thomas (CA)
Craig	Leath (TX)	Washington
Flippo	Lukens, Donald	Watkins
Ford (TN)	Martin (IL)	Whitten
Hammerschmidt	Nelson	Wilson
Hawkins	Spence	

□ 1525

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the Senate bill was amended so as to read:

A bill to establish Petroglyph National Monument and Pecos National Historical Park in the State of New Mexico, and for other purposes.

A motion to reconsider was laid on the table.

REPRESENTATIVE SCHEUER SUPPORTS BATES-BOEHLERT-WAXMAN AMENDMENT TO CLEAN AIR BILL

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

Mr. SCHEUER. Mr. Speaker, for some reason that I do not understand I am listed in a letter that is being circulated in the last couple of days as a supporter of the Bruce-Oxley amendment to the Clean Air Act. This is by accident, inadvertence, and mistake.

In fact, I am a supporter of the Bates-Boehlert-Waxman amendment to the Clean Air Act.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT PROVIDING FOR CONSIDERATION OF H.R. 3030, CLEAN AIR ACT AMENDMENTS OF 1990

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight, May 22, 1990, to file a privileged report providing for consideration of H.R. 3030, the Clean Air Act Amendments of 1990.

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

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 4636, SUPPLEMENTAL ASSISTANCE FOR EMERGING DEMOCRACIES ACT OF 1990

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 395 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 395

Providing for the consideration of the bill (H.R. 4636) to authorize supplemental economic assistance for fiscal year 1990 to support democracy in Panama and Nicaragua, and for other purposes.

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4636) to authorize supplemental economic assistance for fiscal year 1990 to support democracy in Panama and Nicaragua, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one and one-half hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the bill shall be considered as having been read for amendment under the five-minute rule and all points of order against the bill are hereby waived. No amendment to the bill shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report, may only be offered by the Member specified or his designee, shall be considered as having been read and shall be debatable for the time specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. All points of order against the amendments printed in the report are hereby waived. Said amendments shall not be subject to amendment except as specified in the report. The amendments numbered one shall be considered en bloc and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. If both amendments numbered four and five are adopted, only the latter amendment which is adopted shall be considered as having been finally adopted and reported back to the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 4636, it shall be in order to take S. 2364 from the Speaker's table and to consider said bill in the House. It shall then be in order to move to strike out all after the enacting clause of S. 2364 and insert in lieu thereof the provisions contained in H.R. 4636 as passed by the House, and all points of order against said motion are hereby waived.

□ 1530

The SPEAKER pro tempore (Mr. TRAXLER). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

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

Mr. Speaker, House Resolution 395 is a modified open rule providing one and one half hour of general debate. One hour is to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Foreign Affairs, and one-half hour is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules.

All points of order against the bill and against its consideration are waived. The rule makes in order only the amendments printed in the report accompanying the resolution and waives all points of order against those amendments. The amendments are to be considered only in the order and manner specified in the report. They are debatable for the time designated, to be equally divided between the proponent of the amendment and a member opposed thereto. The amendments are not subject to amendment.

Mr. Speaker, House Resolution 395 specifically makes in order the following amendments: First, the amendments en bloc by Representative FASCELL of Florida, debatable for 10 minutes; second, the amendment by Representative KOSTMAYER of Pennsylvania, debatable for 20 minutes; third, the amendment by Representative DREIER of California, debatable for 20 minutes; fourth, the amendment by Representative BROOMFIELD of Michigan, debatable for 1 hour; and fifth, the amendment by Representative MOAKLEY of Massachusetts or Representative MURTHA of Pennsylvania, debatable for 1 hour.

The rule states that the amendments numbered 1 in the report are to be considered en bloc and are not subject to a demand for a division of the question in the House or in the Committee of the Whole.

The rule further states that if both the Broomfield amendment and the Moakley amendment are adopted, only the last amendment adopted shall be considered as having been adopted and reported back to the House.

Mr. Speaker, the rule provides one motion to recommit, with or without instructions. After passage of H.R. 4636, the rule makes it in order to take the bill S. 2364 from the Speaker's table and to consider the bill in the House. A motion to strike all after the enacting clause of S. 2364 and insert in lieu thereof the text of H.R. 4636, as passed the House, is in order. The rule waives all points of order against the motion.

Mr. Speaker, H.R. 4636 authorizes supplemental foreign aid appropriations for Nicaragua, Panama and other countries. In addition, the bill authorizes and places conditions on military assistance to El Salvador in fiscal year 1990 and fiscal year 1991.

H.R. 4636 authorizes many of the foreign operations components of H.R. 4404, the supplemental appropriation bill. In addition, the legislation authorizes assistance for sub-Saharan Africa. The bill establishes a new development fund for Africa and provides for Caribbean regional development.

Title V of the bill withholds 50 percent of the money authorized for military assistance to El Salvador for the remainder of fiscal year 1990 and in fiscal year 1991. The rule provides for ample time to debate El Salvador and makes in order two amendments to the title.

Mr. Speaker, the Rules Committee requested that amendments be submitted to us several days before we granted this rule. We made in order every

Republican Amendment submitted. In addition, on the issue of El Salvador the rule makes in order the Broomfield substitute, and even allows instructions on the motion to recommit. In my opinion, this is eminently fair treatment of the minority.

Mr. Speaker, we have endeavored to work with the minority and the administration on the issue of El Salvador. It was only when we reluctantly concluded that the current round of talks were not going to produce an agreement that we decided to proceed with this bill on the floor. I fully anticipate and hope that we will continue to seek a bipartisan compromise on the issue of El Salvador and I look forward to working with the minority and the administration to accomplish this.

Mr. Speaker, this is a good rule that provides for the expeditious consideration of H.R. 4636, and I urge its adoption.

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

Mr. Speaker, I thank my friend, the gentleman from Massachusetts, chairman of the Committee on Rules, for yielding me half the time; nothing unfair about that.

Mr. Speaker, I rise with certain misgivings about H.R. 4636, as well as the rule that provides for its consideration. But I believe that the bill should be debated and I will not ask for a "no" vote, however modified the rule may be.

I will have more to say about H.R. 4636 during the general debate, but for now I will make just a few comments about the rule, House Resolution 395.

As the good chairman indicated, this is a modified closed rule that makes in order consideration of five amendments. One of these five amendments will be an en bloc package of amendments, which are largely technical in nature. All told, Mr. Speaker, there were only three amendments filed with the Committee on Rules that are not made in order under this rule. As the chairman has said, I would note that every amendment filed by Republican Members is being accommodated under this rule, and we thank the gentleman for that.

There were three amendments that were not allowed: The Traficant amendment, the Atkins amendment and, I believe, one of the Kostmayer amendments.

It is my practice, Mr. Speaker, not to support a less than fully open rule unless such a rule has been worked out in advance by the bipartisan leadership. That was not the case with this rule. There is one other serious problem, but this is with the bill itself: Namely, the inclusion of an El Salvador provision, against the wishes of the administration.

Mr. Speaker and my colleagues, H.R. 4636 started out as a simple request from the administration to provide assistance to the new democratic governments, I say new democratic governments of Nicaragua and Panama. But the bill has ballooned into an omnibus foreign aid package and the El Salvador language is a particularly regrettable provision.

So we have before us a flawed bill, but the process must go forward, and I will not oppose the rule.

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

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the very eloquent gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I do not often come up on a rule and vote against it. I do not think there is a chairman of the House that has been more fair to everybody than the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. Speaker, I am going to vote "no" on the rule and vote "no" on the bill. I just want to say a few things briefly.

I am trying to figure out, after almost 6 years, how our Government works. What really confuses me is we have been borrowing $200 billion a year because we spend $200 billion a year more than we take in. Now, that is really a tragedy because we are running an insolvent government that, in my opinion, is fiscally on automatic pilot about to go belly up.

With that $200 billion, listen to what we do: About $150 billion, we go ahead and we borrow that money from the real rich countries and we turn around and take the $150 billion to provide defense and protection for those same rich countries who have lent us the borrowed money.

Some people would say that is important for national security to have this NATO Alliance.

□ 1540

They give Members all this malarkey every year. I listen to their debates. Then we come to foreign aid and we borrow $20 billion from rich countries, and take this borrowed money, and then we give it in the form of foreign aid to those so-called poor countries. Many of those so-called poor countries say "Yankee, go home."

Now, I am trying to figure this all out. We borrow money so that we can give it away. But let me tell Members what really bothers me. I would like someone to tell me if there is any country around the world that takes our foreign aid money and then buys our T-bills with it? And then we pay interest on the debt to countries buying our T-bills, with foreign aid money, that we borrowed from rich countries.

Now this, Members, is Congress.

My people, no jobs. "Well, TRAFICANT, supply side." No housing. "Well TRAFICANT, no parochialism." No highways. "Now, look, TRAFICANT, no demonstration money." No revenue sharing. "Look, TRAFICANT, we got a deficit." Urban development action grants. "What are you trying to do, TRAFICANT, break the bank?"

Let me tell Members what. This is a taxpayer's screw bill here today, and I love this, I really do. Members can call me all the names they want, but I offered an amendment, and I normally have my amendments approved, but my amendment would have called for a vote and it would have been defeated, but here's what it said. My amendment would have said, "Look, it is bad enough we are borrowing this money and then we are going to give it to someone else, and they are not even American." My amendment would have said that when they go ahead and use this $20 billion, they would buy American goods with it. Now, my amendment was not allowed, and my amendment was not allowed because people do not want recorded votes on the Traficant amendment to cut foreign aid or to challenge foreign aid.

Let me say there have been some elections in the past where a pay raise became an issue. I will say this on the floor. I may not be here, I will probably be defeated before this is all over, but there will come a day when your voting record on foreign aid is going to be the one that grabs Members right by the keister, and that is what I want. I want the litmus test to be this type of vote.

That is why I feel bad having to vote against any of the gentleman from Massachusetts, Mr. MOAKLEY's issues that he brings to the floor. I mean that. I appreciate the gentleman giving me the time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. BROOMFIELD], the ranking Republican on the Committee on Foreign Affairs.

Mr. BROOMFIELD. Mr. Speaker, despite being titled a "modified open rule," this rule is in fact a closed rule. It permits only a small number of specified amendments for limited debate.

The proponents of this rule say that it is justified by the emergency nature of the bill, which is primarily intended to provide assistance for Nicaragua and Panama. But, in fact, this bill has languished in the House of Representatives since January, when the President first urgently requested this assistance. If the House had acted more expeditiously, there could have been a richer debate on this bill.

Mr. Speaker, I am appreciative to the Rules Committee and its distinguished chairman, Mr. MOAKLEY, for the opportunity to offer a substitute amendment on El Salvador. I believe that the vote on the Broomfield-Byron amendment will reveal that the majority of the Members of this House do

not support hastily withdrawing military assistance from El Salvador, despite the concerns we all share about human rights abuses attributable to the Salvadoran military.

The Studds provision, contained in the bill, would remove United States support for the Government of El Salvador just as the process of serious negotiations with the FMLN guerrillas is resuming. It would allow the FMLN terrorist to win in the Halls of Congress what they have so far failed to achieve either at the ballot box or even on the battlefield. The Studds provision would reward the FMLN for its provocations and make United States assistance to El Salvador hostage to the actions of the insurgents.

Not only are the provisions of the bill on this subject misguided, the Moakley proposal is little better. Like Studds, the Moakley amendment would in all likelihood also lead to an immediate cutoff of half of currently authorized military assistance. It would also make this assistance and future assistance depend largely on the actions of the FMLN guerrillas.

The rule unfairly stacks the debate on El Salvador. If the Broomfield substitute is adopted over the Studds language in the bill, then Chairman MOAKLEY could offer an amendment which is virtually identical to the Studds provision. Let's be absolutely clear: The Moakley amendment is not a moderate alternative to Studds. It is another attempt to cut off assistance and force the President to veto this bill.

Let there be no doubt. The President will veto this bill if it contains either the Studds or Moakley provisions. On the other hand, the administration has unequivocally indicated that it supports the Broomfield-Byron substitute.

The administration, through Secretary of State Baker, has offered to negotiate seriously and in good faith on legislative conditions on further assistance to El Salvador. This bill, which is required to meet emergency needs in Nicaragua and Panama, is really not the place for resolution of this issue. Nevertheless, the administration supports the Broomfield-Byron provision at this time.

Mr. Speaker, for a truly effective policy in El Salvador, the leaders of this body must reach a meeting of minds with the administration and should not play a game of legislative chicken with much needed assistance for Nicaragua and Panama.

In conclusion, I hope that once we get into this debate, the Broomfield-Byron amendment will be adopted by the House so that United States assistance to El Salvador does not become hostage to the FMLN terrorists.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. MARKLEY].

Mr. MARKEY. Mr. Speaker, I rise in support of the Moakley amendment.

Mr. Speaker, 10 years ago, shortly before his brutal assassination, Archbishop Romero pleaded with us to stop sending military assistance to El Salvador. We did not listen to his plea. Over the ensuing 10 years we continued to send military aid. Since that time the situation has not improved and there has been no resolution of the conflict.

Last fall, six Jesuits, their housekeeper, and her young daughter were brutally killed by elements of the Salvadoran military. The Jesuits appealed to Salvadorans to reject the calls to violence from the right and left and heed their call to conscience.

Now it is time to heed their message and to cut military aid to El Salvador.

In Nicaragua, we pursued a military option before realizing that the best way to achieve democracy and peace was through negotiations, not through war.

In El Salvador, we have given $4 billion to the military over the last 10 years and what have we achieved? A Central American killing field which has left 70,000 dead.

Salvadoran democracy is being held hostage by the enemies of civilizing intelligence. Everyone knows the FMLN cannot force their way into power.

After 10 years the effort to defeat them has failed, and U.S. policy is bankrupt.

All that can be achieved through a military option is continued violence, misery, and death in El Salvador.

Mr. Speaker, El Salvador is not so much a country with a corrupt military, as a corrupt military with a country.

Fourteen out of the top 15 Salvadoran military commanders have risen to their positions despite having had documented abuses of human rights carried out by troops under their command. The judicial inquiry into the Jesuit murders is stalled, key witnesses sent out of the country, and crucial evidence has disappeared.

Enough is enough. There is no accountability in El Salvador for these abuses—the question now is whether there will be some accountability tied to United States military aid. It is time to place conditions on our assistance; intelligent conditions which will result in responses carefully calibrated to be elicited from this Government.

I urge my colleagues to support the Moakley substitute. It is a rational, common sense, balanced response to irrational conduct in that region of the world.

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

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

The previous question was ordered.

The SPEAKER pro tempore (Mr. Bosco). The question is on the resolution.

The question was taken; the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 305, nays 108, not voting 19, as follows:

[Roll No. 125]

YEAS—305

Ackerman	Dymally	Kastenmeier
Anderson	Dyson	Kennedy
Andrews	Early	Kennelly
Annunzio	Eckart	Kildee
Anthony	Edwards (CA)	Kleczka
Applegate	Edwards (OK)	Kolter
Armey	Emerson	Kostmayer
Aspin	Engel	LaFalce
Atkins	English	Lagomarsino
AuCoin	Erdreich	Lancaster
Baker	Espy	Lantos
Barnard	Evans	Laughlin
Bates	Fascell	Lehman (CA)
Beilenson	Fazio	Lehman (FL)
Bennett	Feighan	Levin (MI)
Berman	Fish	Levine (CA)
Bevill	Flake	Lewis (GA)
Bilbray	Foglietta	Lipinski
Boehlert	Ford (MI)	Lloyd
Boggs	Frank	Long
Bonior	Frost	Lowey (NY)
Borski	Gallegly	Luken, Thomas
Bosco	Gallo	Machtley
Boucher	Gaydos	Madigan
Boxer	Gejdenson	Manton
Brennan	Gephardt	Markey
Brooks	Geren	Martin (NY)
Broomfield	Gibbons	Martinez
Browder	Gilman	Matsui
Brown (CA)	Glickman	Mavroules
Bruce	Gonzalez	Mazzoli
Bryant	Gordon	McCloskey
Buechner	Goss	McCurdy
Bustamante	Gradison	McDade
Byron	Grant	McDermott
Callahan	Gray	McGrath
Campbell (CO)	Green	McHugh
Cardin	Guarini	McMillan (NC)
Carper	Gunderson	McMillen (MD)
Carr	Hall (OH)	McNulty
Chandler	Hall (TX)	Meyers
Chapman	Hamilton	Mfume
Clarke	Hansen	Michel
Clement	Harris	Miller (CA)
Coleman (MO)	Hastert	Miller (OH)
Coleman (TX)	Hatcher	Miller (WA)
Collins	Hawkins	Mineta
Condit	Hayes (IL)	Moakley
Conte	Hayes (LA)	Molinari
Conyers	Hefner	Mollohan
Cooper	Hertel	Montgomery
Costello	Hoagland	Moody
Coyne	Hochbrueckner	Morella
Crockett	Horton	Morrison (CT)
Darden	Hoyer	Morrison (WA)
Davis	Hubbard	Mrazek
de la Garza	Huckaby	Murtha
DeFazio	Hutto	Myers
Dellums	Jacobs	Natcher
Derrick	Jenkins	Neal (MA)
Dicks	Johnson (CT)	Neal (NC)
Dingell	Johnson (SD)	Nowak
Dixon	Johnston	Oakar
Donnelly	Jones (GA)	Oberstar
Dorgan (ND)	Jones (NC)	Obey
Downey	Jontz	Olin
Durbin	Kanjorski	Ortiz
Dwyer	Kaptur	Owens (NY)

Owens (UT)	Saiki	Stenholm
Pallone	Sangmeister	Stokes
Panetta	Sarpalius	Studds
Parker	Savage	Swift
Pashayan	Sawyer	Synar
Patterson	Scheuer	Tallon
Payne (NJ)	Schneider	Tanner
Payne (VA)	Schroeder	Tauzin
Pease	Schulze	Taylor
Pelosi	Schumer	Thomas (GA)
Penny	Serrano	Thomas (WY)
Perkins	Sharp	Torres
Pickett	Shays	Torricelli
Pickle	Sikorski	Towns
Poshard	Sisisky	Traxler
Price	Skaggs	Unsoeld
Quillen	Skeen	Valentine
Rangel	Skelton	Vento
Ravenel	Slattery	Visclosky
Ray	Slaughter (NY)	Volkmer
Regula	Smith (FL)	Walgren
Rhodes	Smith (IA)	Walsh
Richardson	Smith (NE)	Waxman
Rinaldo	Smith (NJ)	Weiss
Ritter	Smith (TX)	Weldon
Roe	Smith (VT)	Wheat
Rogers	Snowe	Whitten
Ros-Lehtinen	Solomon	Wise
Rose	Spratt	Wolpe
Rostenkowski	Staggers	Wyden
Rowland (GA)	Stallings	Wylie
Roybal	Stangeland	Yates
Russo	Stark	Yatron
Sabo	Stearns	

NAYS—108

Archer	Henry	Ridge
Ballenger	Herger	Roberts
Bartlett	Hiler	Robinson
Barton	Holloway	Rohrabacher
Bateman	Hopkins	Roth
Bentley	Houghton	Roukema
Bereuter	Hughes	Rowland (CT)
Bilirakis	Hunter	Saxton
Bliley	Hyde	Schaefer
Brown (CO)	Inhofe	Schiff
Bunning	Ireland	Schuette
Burton	James	Sensenbrenner
Campbell (CA)	Kasich	Shaw
Clinger	Kyl	Shumway
Coble	Leach (IA)	Shuster
Combest	Lent	Slaughter (VA)
Coughlin	Lewis (CA)	Smith, Denny (OR)
Courter	Lewis (FL)	
Cox	Lightfoot	Smith, Robert (NH)
Crane	Livingston	
Dannemeyer	Lowery (CA)	Smith, Robert (OR)
DeLay	Marlenee	
DeWine	Martin (IL)	Spence
Dickinson	McCandless	Stump
Dornan (CA)	McCollum	Sundquist
Douglas	McCrery	Tauke
Dreier	McEwen	Traficant
Duncan	Moorhead	Upton
Fawell	Murphy	Vander Jagt
Fields	Nielson	Vucanovich
Frenzel	Oxley	Walker
Gekas	Packard	Weber
Gillmor	Parris	Whittaker
Gingrich	Paxon	Wilson
Grandy	Petri	Wolf
Hancock	Porter	Young (AK)
Hefley	Rahall	Young (FL)

NOT VOTING—19

Alexander	Kolbe	Thomas (CA)
Clay	Leath (TX)	Udall
Craig	Lukens, Donald	Washington
Flippo	Nagle	Watkins
Ford (TN)	Nelson	Williams
Goodling	Pursell	
Hammerschmidt	Solarz	

□ 1610

Mr. CLINGER changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 124 and No. 125.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT ON WEDNESDAY, MAY 23, 1990, DURING THE 5-MINUTE RULE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may be permitted to sit on Wednesday, May 23, 1990, while the House is reading for amendment under the 5-minute rule.

The purpose is for a full committee markup.

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

There was no objection.

SUPPLEMENTAL ASSISTANCE FOR EMERGING DEMOCRACIES ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 395 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4636.

□ 1512

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4636) to authorize supplemental economic assistance for fiscal year 1990 to support democracy in Panama and Nicaragua, and for other purposes with Mr. AUCOIN in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 30 minutes; the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 munutes; the gentleman from Massachusetts [Mr. MOAKLEY] will be recognized for 15 minutes; and the gentleman from New York [Mr. SOLOMON] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I yield myself not to exceed 4 minutes.

Mr. Chairman, I rise in strong support of H.R. 4636, which provides authorization for assistance for fiscal year 1990 for emerging democracies in the Western Hemisphere.

In brief, this bill: Gives the President the authority to provide supplemental assistance he requested for Panama, Nicaragua, and refugees; gives the President the authority to provide supplemental assistance for Haiti and for the Caribbean; creates a housing guaranty program for new immigrants in Israel; authorizes the repayment to the African-aid account the $30 million which was borrowed from existing appropriations earlier this year for emergency assistance for Panama, establishes specific policy guidelines for United States assistance for Africa and the Caribbean; and conditions United States military assistance to El Salvador on the behavior of the Government of El Salvador and on the FMLN guerrillas.

Mr. Chairman, the committee moved expeditiously on the principal purpose of this bill with good bipartisan cooperation. However, we were not able to work out a compromise agreement with the administration on the terms and conditions of our military assistance program to El Salvador. This delayed final action both in committee and with respect to the rule on consideration of this legislation.

I would like to thank the leadership and all interested Members for their efforts on behalf of this bill and hope that, having finally taken this bill up in the House, we can now let the legislative process work. Following passage of this bill today, we are prepared to go to conference immediately with the Senate. We will make every effort to complete that conference before both bodies take up the related supplemental appropriations conference report later this week.

While the money requested by the President is contained in the urgent supplemental which is ready to come back from conference, let me briefly sum up what we would lose by failing to enact this legislation: Incentives to abolish money-laundering in Panama; policy guidance for the use of funds in Panama, Nicaragua, and Haiti, authorities for a development fund for Africa and the Caribbean; and momentum toward establishing an effective, bipartisan congressional/executive branch agreement on our policy toward El Salvador.

Mr. Chairman, I urge my colleagues to support final passage of this bill and to insist on regular order in the legislative process.

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

Mr. Chairman, on January 25, 1990, the President first requested legislation to provide $500 million in assistance for the newly elected Government of Panama.

On March 5, the President requested an additional $300 million in assistance for the newly elected democratic government of Nicaragua.

Four months have passed since the President made his initial request, yet we are still debating this package. What's more, it has become loaded down with unrelated provisions that will do nothing but provoke a Presidential veto.

For years, Members of this body have argued that we should give peace a chance in Central America. Over and over, I've heard it said that U.S. aid should support peaceful democratic

change, not continued warfare. Where are the voices for peaceful change now that we need them?

I recall some of the early criticisms of the President. He was called timid and cautious. Yet, it was he who acted right away on this important issue—and that was 4 months ago. I recall criticism of the President's aid requests for Panama and Nicaragua. The requests were called excessive. Yet, the bill before us exceeds his request by almost $180 million.

Not only has this bill been held up too long—not only does it authorize too much money—but the bill also contains a seriously flawed provision restricting aid to El Salvador.

The Studds language incorporated in title V places onerous conditions on military aid and gives the terrorist FMLN veto power over our assistance.

Peace negotiations have begun under U.N. auspices. Yet, the committee bill ignores the peace process.

The Secretary of State has tried to fashion a bipartisan approach to El Salvador. This committee bill is a partisan measure which rewards the FMLN for walking out of the peace talks last fall and launching a murderous offensive that claimed the lives of hundreds of innocent civilians.

The White House has indicated to me that the President will almost certainly veto the bill if this provision is not fixed.

The Studds amendment is pure veto bait. It has been drawn up for no other reason than to create a confrontation with the administration.

Everyone in this House knows that the real aid bill—the supplemental appropriations bill—comes up tomorrow. This is just an exhibition game. It's a way of playing to the galleries.

What's been lost in this exhibition of showmanship is the well-being of democracy in Nicaragua and Panama. While the elected leaders of those two countries are fighting for the survival of democracy, we are playing inside baseball—a game for the press galleries.

Mr. Chairman, Congresswoman BYRON and I will be offering an amendment to improve the El Salvador language, and I urge all Members to support this approach. By agreeing to our amendment we can assure passage of the bill, avoid a veto by the President, and finally get aid to the needy people of Panama and Nicaragua.

At this point I insert into the RECORD the statement of administration policy on H.R. 4636.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4636—SUPPLEMENTAL ASSISTANCE FOR EMERGING DEMOCRACIES ACT OF 1990

The Administration supports enactment of legislation to promote democracy in Nicaragua and Panama. Although H.R. 4636 authorizes programs and activities requested by the Administration, it also includes objectionable provisions that raise serious policy concerns and impinge significantly on the ability of the President to conduct foreign policy.

Without modifications to take into account the Administration's concerns regarding the bill's restrictions on military aid to El Salvador, the President's senior advisers would recommend that H.R. 4636 be vetoed. The Moakley amendment is very similar to the restrictions on El Salvador currently in H.R. 4636, and would also cause the President's senior advisers to recommend veto. Such restrictions would greatly hinder the Administration's ability to work towards peace in El Salvador. The Administration supports, as a substitute, the Broomfield-Byron amendment, which provides sufficient flexibility for providing assistance to El Salvador. Under the Broomfield-Byron amendment, the President shall withhold a portion of military assistance funds for El Salvador if he determines that the Government has not made demonstrated progress in the area of human rights, Jesuit murder investigation, administration of justice, and civilian control over the police.

H.R. 4636 also contains provisions that limit the President's flexibility to respond to changing conditions and to provide for an effective foreign assistance program. Accordingly, the Administration will seek to delete or modify those provisions that:

Impose numerous conditions, restrictions, and earmarks on regional assistance programs—i.e., particularly the separate policy and program requirements for the Caribbean. These requirements would limit the flexibility needed by the Administration to implement development assistance programs, and are contrary to the recommendations in the House Foreign Affairs Committee Task Force Report on Foreign Assistance.

Require the President to negotiate certain agreements with the government of Panama or otherwise prescribe the conduct of foreign negotiations.

Require prior notification or certification to Congress before certain foreign assistance funds could be obligated or expended for specified purposes.

Earmark funds for the establishment of an Agency for International Development (AID) mission in Namibia, thereby encroaching on the President's authority to conduct diplomatic relations with foreign governments.

Earmark the Emergency Refugee and Migration Assistance Fund, especially the earmarks for domestic refugee/migrant assistance, thereby precluding the flexibility required to administer such emergency assistance effectively.

□ 1620

Mr. FASCELL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I rise in support of the committee bill and the Moakley-Murtha substitute to improve it.

Our proposal would, for the first time, provide a strong incentive for both sides in the Salvadoran civil war to negotiate seriously for peace.

It would, for the first time, make the level of U.S. military aid conditional not only on the behavior of the government, but of the FMLN, as well.

Under our proposal, if U.S. aid is cut off, the armed forces will have only themselves to blame; and if paid is fully restored, the FMLN will be to blame. That's putting the responsibility exactly where it belongs.

Some say the substitute offered by the minority is preferable. But it is a substitute without substance. It accepts the premises of our bill; that negotiations are necessary; that the military must be reformed; that the FMLN must accept democracy; but it provides neither side with a real incentive to change. It requires nothing that the President could not have done on his first day in office. It changes nothing and waits 5 months to do it.

Today's excuse for inaction is that negotiations have just begun. It is a delicate time, we are told. But it is the ideal time. There could be no better time to approve a bill that would empower those who seek peace in El Salvador, while disarming, on both sides, the apostles of continued war.

Some say we shouldn't be dealing with El Salvador in this bill. But the promotion of peace and democracy in Central America is the heart and soul of this legislation. And what could be more urgent than stopping a brutal, bloody, senseless, stupid conflict that has killed 70,000 people, undermined civilian rule, throttled democracy and created refugees from Honduras to Dupont Circle? El Salvador belongs in this bill.

Some say this proposal would hurt President Cristiani by cutting military aid. But under our proposal, military aid will be reduced, if the government behaves, only if the FMLN stops attacking civilian targets; stops launching offensives; and stops acquiring arms. It must, in short, stop being the FMLN. Nothing we could do would be more helpful to President Cristiani, or more certain to promote peace.

As for the armed forces, I must tell you that—in my judgment—they do not deserve another nickel of our aid. They have grown so used to U.S. dollars; so immune to lectures on human rights; so arrogant in their use of power; so confident in their lies; so secure in their belief that we will never act on our ideals that they will never change unless we shock them into doing so—not with more empty rhetoric, but with a law that will finally hold them accountable for what they do.

Last November 16, one of the best-trained, most-experienced units in the Salvadoran military surrounded the sleeping quarters of six courageous and compassionate men; the soldiers forced those men to lie face down on the ground; and shot them in the back of the head. The soldiers came across a woman who cooked for those six Jesuit priests, and her 15-year-old daughter. They shot them both more than a dozen times. They did not want any witnesses.

But we are witnesses. Evidence in the Jesuits' case has disappeared. The investigation is at a standstill. Justice—again—may be denied. Of this, too, we are witnesses. But that is not all we have seen.

Over the past decade, we have seen thousands of campesinos, students, labor leaders, educators, priests, nuns—abducted, tortured, often mutilated—their bodies left in streets or tossed down wells or thrown in rivers. And we have heard their murderers lie repeatedly about those crimes, while thanking us—in the very next breath—for U.S. military aid.

We have also seen—if we have chosen to see—teenagers with their legs blown off by FMLN mines; mayors assassinated for doing their jobs; civilians caught in the crossfire of a guerrilla offensive launched in the name of the people, but not supported by the people.

Today, we must see—if we see anything at all—that the deaths on one side do not excuse the other. For there is no difference of politics or ideology that justifies the theft of human dignity; no provocation excuses murder or kidnapping or torture.

Today, we must see—unless we are blind—that every day we wait means more injustice, more suffering, more dead. El Salvador's future depends on peace.

I plead with you; do not turn away from what we have seen with our own eyes; from what we have seen in the eyes of the victims on all sides in El Salvador. Do not listen to those who tell you—yes, I agree with all that, but this is not the right time.

Vote your conscience. Not tomorrow; today. Not for a phony substitute; but for the Moakley-Murtha bill. Vote for the real thing; for the right thing; at the right time. Vote today for peace.

Mr. SOLOMON. Mr. Chairman, I yield 1 minute of the time of the Committee on Rules to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, what the gentleman from Massachusetts failed to discuss was that this is a democratically elected government in El Salvador and that this democratically elected government in El Salvador is threatened by the Communist FMLN.

He talked about the atrocities perpetrated upon the people down there by the Government troops, but what he did not tell us was about the atrocities that are taking place on a daily basis by the Communist FMLN who cannot win at the ballot box so they try to get power through the barrel of a gun or through mines planted in areas so they can blow children's feet off. Here is a gentleman who was gunned down in the street indiscriminately by the FMLN; here is a little boy whose father was just killed, gunned down by the FMLN; here is a little girl who both of her legs were blown off by the FMLN. He did not talk about that. He did not talk about these two little children killed in an indiscriminate bombing in a shopping area in El Salvador by the FMLN.

There are the things my colleagues on the other side never tell you about.

Mr. BROOMFIELD. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, the original intent of this legislation was to authorize assistance for Panama and Nicaragua. I strongly support that assistance. It is a tragedy that the people of Nicaragua and Panama, who suffered for so long under dictatorial rule and how now have finally gotten the opportunity to experience democracy, have received more excuses than aid from the United States Government.

It is wrong for the Congress to play partisan politics while the future of democracy hangs in the balance in Panama and Nicaragua. For those who do not think this aid is critical, consider the following:

First, the Sandinistas' plundering of the Nicaraguan economy has left the Chamorro government with only about $3 million in hard currency;

Second, the spring planting season has already begun in Nicaragua, but farmers don't yet have the necessary seed, fertilizer or machinery to plant their crops. A good harvest is essential if Mrs. Chamorro's economic reforms are to succeed; and

Third, this legislation contains urgently needed money to help demobilize the Contras, who by OAS estimates have current food stocks of less than 2 weeks. If the Contras are not quickly reintegrated into Nicaraguan life, it could place severe strains on the relationship between Chamorro and the Nicaraguan army.

The situation is no better in Panama:

One in four Panamanians is now unemployed, GDP continues to fall, and private investment is dropping.

In light of the facts we know about the dire economic situations facing both Nicaragua and Panama, I am sorry that the majority insists on tying our economic aid to these emerging democracies to conditions on our aid to El Salvador. These issues are enormously different and Members should be ashamed that this urgently needed aid for Panama and Nicaragua is being held hostage to partisan politics.

I do not oppose conditionality on U.S. foreign assistance. I have always believed that it is the proper role of the Congress to determine under what terms our foreign aid will be provided. In the case of El Salvador, I agree that conditions may be in order, but the conditionality provisions in this legislation are very poorly-timed and are too restrictive.

As we debate cutting off aid to Salvador, the Cristiani government and the FMLN are sitting down to try to negotiate an end to their war. Just the fact that we are discussing this on the floor today gives the FMLN a huge boost in its negotiating position and places the Christiani government on the defensive. It will be tragic if the Congress, by having this debate today, tips the scale in favor of the FMLN.

Cutting off half of the remaining 1990 military aid to El Salvador and half the military aid next year will only weaken civilian control over the military and allow the FMLN to win in Washington what they could not in El Salvador.

For that reason, I urge Members to support the Broomfield-Byron amendment. If it does not pass, Mr. Chairman, I cannot vote for this bill and I will urge Members to oppose the bill.

□ 1630

Mr. FASCELL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, let me start by saying that the proponents of the Broomfield amendment for some reason think that the basis for the Committee on Foreign Affairs' action was to draw some kind of needless or unnecessary confrontation with the administration or with the President over El Salvador. Nothing could be further from the truth. The fact is that the Central American policy of the Bush administration and the Reagan administration have been disastrous. We now have the opportunity to adopt a piece of legislation which will have impact which will provide an incentive to both sides in El Salvador to negotiate an end to the civil war.

Mr. Chairman, 10 years ago, Archbishop Oscar Romero was brutally murdered while saying Mass in San Salvador. In the decade since his assassination, over 70,000 other Salvadorans have been killed in a savage and relentless civil war—a civil war funded largely by the United States.

During these last 10 years, many here in Congress have repeatedly argued that United States military aid somehow inhibits El Salvador's brutal military from violating human rights. These supporters of aid claim that providing guns and ammunition somehow entices the military to stop murdering its own people.

How many years must the killing continue before our Government recognizes the absurdity of this approach? The arguments did not make sense in 1980, and after 10 years of savagery, they seem almost grotesque today. Archbishop Romero, the murdered American churchwomen, and the Jesuits, were all killed by individuals associated with the Salvadoran military. Yet we in the United States continue to debate the wisdom of sending more aid to that murderous army.

The only real solution to this tragic dilemma would be a complete cutoff of United States financial support for the Salvadoran military. The 10-year-old policy now in place has demonstrably and completely failed to bring peace and justice in El Salvador.

Today we have the first real opportunity in many years to make a significant change in United States policy toward El Salvador—a change in the right direction. The Foreign Affairs Committee included language in this supplemental authorization bill which would immediately suspend 50 percent of United States military assistance to El Salvador. Subsequent military aid would be strictly tied to demonstrable steps on the part of the Salvadoran Government and the FMLN to negotiate in good faith toward a solution to the conflict.

Since the committee's action, several improvements have been suggested by our colleagues Representative MOAKLEY and Representative MURTHA, and these refinements are included in the amendment now before the House.

Mr. Chairman, the adoption of this proposal will not offer a miracle cure to the civil war in El Salvador. Nor will it absolve the United States of continued responsibility for the abuse of the Salvadoran military—after all, 50 percent of the United States military aid will continue flow.

Yet the Foreign Affairs Committee approach—as refined by the Moakley-Murtha amendment—does move our policy in the right direction and provides real incentives for both sides to negotiate for a peaceful and just resolution of the conflict. I urge my colleagues to support the Moakley-Murtha amendment and to oppose any efforts to weaken this language.

Mr. Chairman, let me spend the remaining minute and one-half I have to discussing the underlying legislation, the aid and assistance to Panama and Nicaragua.

Those who were cheering mightily the American invasion of Panama and the capture of Gen. Manuel Noriega a few brief months ago as a justification for the slaughter of at least 300 Panamanian civilians, the death of 23 American military personnel, the devastation of the homes and countryside of Panama, can only read today's headlines to see what we achieved after all of that cost and devastation. General Noriega has just been granted by the U.S. Government the right to have his legal fees paid for by the taxpayers of the United States. The estimates are that that will cost about $3 million.

What is the reason that is being done? Because the Government of the United States does not want to reveal the fact that some $11 million were paid to Noriega while he was a CIA agent of the United States.

All of these problems result from our illegal and immoral invasion of Panama—which violated the United States Constitution, the United Nations Charter and the Charter of the OAS.

And the fact that we are authorizing funds to repair the damage does not excuse the fact that we violated our own laws and highest principles in the process.

In regard to Nicaragua, its people also were subjected to the most outrageous kind of behavior by the Reagan administration.

Much of the damage we are now trying to repair in Nicaragua is a result of the unrelenting war the United States waged against that small and impoverished nation.

Our support of the Contras—and their attempt to overthrow the Nicaraguan Government—are directly responsible for many of the problems now being experienced in Nicaragua.

And now the Contras have announced that they may not honor their agreement to lay down their arms.

Stories in today's newspapers suggest that the Contras have now said they will not live up to the agreement that they made to demobilize and lay down their arms. So much for the honor of the Contras.

This legislation authorizes funds for the repatriation and demobilization of the Contras. But these funds are contingent on the Contras willingness to disarm. If this legislation were in force today, given the Contras recent statements, these funds could not be delivered. The Contras must disarm and disband immediately, otherwise the $340 million authorized by this bill will simply be squandered.

Mr. BROOMFIELD. Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I strongly rise to support today the efforts that we are making in this legislation to give assistance to Nicaragua and to Panama. I think over the last few years the rise of democracy in Latin America has been one of the great things that has happened in the events of the world.

We have now seen democracies flourishing in El Salvador, Nicaragua, and Panama, and we have a national security interest as well as a moral interest in seeing that those democracies survive and flourish and become good trading partners of ours in the future.

What disturbs me about this legislation are the provisions of restricting the aid to El Salvador that are in this bill. I think this is detrimental to the cause of peace in the negotiations with the FMLN, who are still the communist guerrillas operating in that country where we have a duly elected democratic president in President Cristiani, and I think that the concerns of those that want to place these restrictions are unfounded.

I happened to have been a member of the Moakley task force that went to El Salvador to investigate the deaths of the Jesuit priests. It is because of those brutal murders that none of us condone that these restrictions are now in this bill today.

Yet I think when you look back at the perspective of history, they are not justified. Death squads do not abound in El Salvador any more. We have a democratically elected government. The military basically has come under the control of the Cristiani government.

When you look at what has happened in this case itself, the interpretations that we are beginning to hear on the floor of the House with regard to the Jesuit deaths are all wrong. It seems to me we need to look at what really is happening.

We have had a thorough investigation. The task force itself says, and I quote, "* * * believes that Salvadorean President Cristiani has made a sincere effort to encourage professional investigation into the murders."

We have a bunch of officers who have been held and charged with these murders. We have a very high officer, Colonel Benavides, who is charged right now with the murders.

In the Salvadorean system of justice, a civilian judge has the investigation at the present time and he is taking that investigation forward as he is supposed to.

The investigation that this judge is doing, Judge Zamoro, is a very drawn out process under the nature of the laws of those governments in Latin America, all of them having a little different justice system from ours. But is seems to be operating.

I know I went out with the task force to interview the judge. I found him to be a remarkably frank individual who thought the case was very strong against these folks for the Jesuit deaths. He described the process which they were going to go through, a followup investigation, sort of a preliminary inquiry, followed by a deciding point on law, which would then take the case to a jury against these officers.

In the next week he has under consideration the Vice Minister of Defense, Sepeda, who will be interviewed by him, Chief of Staff Ponce, who is the highest ranking officer above Sepeda, has given two sworn statements already to Judge Zamoro, Minister of Defense Larios and Vice President of Defense-Republic Security Montano have stated that they are going to be testifying within the next week. All kinds of folks who are the key officers that we are talking about, worrying about, are all giving their statements to the investigating officer, Judge Zamoro.

I do not see where the problem is, and I think we ought to give the benefit of the doubt in this case to the newly elected, freely elected government of President Cristiani, that we all know has done an excellent job up

to this point in investigating the murders of these Jesuits, and giving the power to be able to deal with these Communist guerrillas, the FMLN, in a way that will finally bring peace. Let us not tie his hands. Let us not tie the hands of aid to the Salvadorean military and their government, right now at the critical juncture.

Let us let the Broomfield amendment carry the day. Let us let our President make those decisions, if indeed the investigation goes awry in the future, which it has not right now, and not put the shoe on the other foot and take away the aid and have it only trigger back if the FMLN do something disastrous out there.

We need to give this support to Cristiani now. I think we have that chance later in this vote on the floor when the Broomfield amendment comes up. I urge its adoption.

Mr. FASCELL. Mr. Chairman, I yield 4 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, the outrageous murders of the Jesuits in El Salvador were just a ripple in the blood bath that has washed over that country for the past 10 years while the United States has pursued a policy that has American taxpayers financing death squads and torturers.

For 10 years, our tax dollars have gone to a military that views as enemies those who join unions, work with the poor, and criticize human rights abuses. The list of victims gets longer and longer. Since 1980, 70,000 people have been killed. The majority have been civilians killed by the military or death squads.

Let me tell you about some of those who have been killed. I have photographs here from the Nongovernmental Human Rights Commission of El Salvador. A group of church people in my district, church people, the Marin Interfaith Task Force on Central America, managed to get these photographs out of El Savador so that we could all see exactly what is going on there.

The face of war is not easy to look at, but I have an obligation to my constituents who risked their lives to share these photos with the American people. Therefore, I have decided to show just four of the hundreds of photographs I have access to show them as examples of the real brutality. I apologize if anyone finds it necessary to look away from these photographs.

□ 1640

The first one is a man and a woman. They were taken from their houses in April 1988, during the night by men dressed in olive drab and armed with M-16's. They were shot in the head. The woman had been raped. She was 77 years old.

The next one, three young men were found mutilated and dead in February 1988 in what is known in Salvador as a body dump. This one, a ravine between two cliffs, is called the devil's door. Their families said they had been taken away by men dressed in military uniforms. One of the victims was only 16.

Next, we have all heard of Herbert Anaya. He was president of the Independent Human Rights Commission when he was gunned down by two assailants in October 1987. He was preparing to take his children to school. This House memorialized his slaying.

As Members know, there is also violence from the FMLN. They too have committed grievous human rights abuses. This last photo is of government troops killed by the FMLN. Yes, the FMLN violates human rights, but we have not given the FMLN $4 billion since 1980 as we have given the Government of El Salvador. That is the difference. Blood is being shed with our tax dollars.

Mr. Chairman, President Cristiani has been in the newspapers talking about the progress his government is making in El Salvador. In the meantime, these abuses continue, despite the enormous rage unleased around the world by the murders of the Jesuits.

The Washington Post reported last week the disappearance of 30 more people in the first 3 months of this year. More than half disappeared after being detained by the military.

Mr. Chairman, I am one of those who has always supported strong strings on all aid to El Salvador. But I am supporting H.R. 4636 because it is a first step.

I would like to close by quoting the Moakley Commission. "During its visit to El Salvador, task force members heard the murders of the Jesuits described by high military officials as 'stupid,' 'self-defeating,' and 'dumb.' But no senior military official with whom we talked said it was wrong."

My colleagues, let us say these brutal murders were wrong. Support H.R. 4636.

Mr. SOLOMON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Louisiana [Mr. LIVINGSTON].

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would like to advise the people in the gallery that they are here as guests of the House and outbursts and displays are not permitted under the rules of the House.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I want to take 30 seconds to try to set the record straight.

The gentlewoman from California showed pictures with Mr. Anaya, who was killed by the Communist FMLN guerrillas, and she is attributing his death to the government, which is totally incorrect.

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I do not have the time for yield.

Mrs. BOXER. The gentleman is incorrect.

Mr. BURTON of Indiana. I am not incorrect.

Mr. SOLOMON. Regular order.

The CHAIRMAN. The regular order is the gentleman from Louisiana [Mr. LIVINGSTON] controls the time.

Mr. BURTON of Indiana. Mr. Chairman, my second point I would like to make very briefly is that this is a duly elected government and the FMLN Communists down there have been threatening mayors and other elected officials and telling them they have 24 hours to get out of town, and if they do not then they kill them and their families. The gentlewoman does not mention that either.

Mr. LIVINGSTON. Mr. Speaker, how soon we forget. How many of us remember back to 1987, and the state visit of El Salvador's President, Jose Napoleon Duarte?

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The gentleman from Louisiana will suspend for one moment.

The Chair would also like to remind Members that the proper order is to address their remarks not to each other on the floor but to the Chair, and given the sensitive and controversial nature of the material the Committee is debating it would be wise for all Members to observe that practice.

The Chair now recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, how soon we forget. How many of us remember back to 1987, and the state visit of El Salvador's President, Jose Napoleon Duarte, to the United States? That heroic individual, a former political prisoner who withstood repeated torture and a death sentence, stood on the south lawn of the White House and publicly thanked the President of the United States and the American people and the Congress, yes, the Congress for our support of freedom in El Salvador.

And then he stepped off the platform, walked over to the Marine Honor Guard, and in front of an international audience he kissed the American flag.

Mr. Chairman, President Duarte is no longer with us. But the same 5 million Salvadoran people who elected him have elected another leader to carry on that country's fledgling democracy. That democracy has succeeded over the last 10 years despite threats, bombs, riots, revolution or attempted revolution, assassination,

murder, mayhem, and so forth at the hands of the Cuban and Sandinista financed and controlled FMLN.

That is the real issue, Mr. Chairman, not negotiations, not good faith efforts. This debate is about democracy, the fundamental right to choose your own leaders and not have them chosen for you by force.

El Salvador's rebels, the FMLN, like every repressive movement on this Earth, do not want democracy. They do not want negotiations and they do not want freedom. They want power. They want control, and they want it not through elections, they want it by force of arms, because they know they cannot win a free, and fair and open election.

It is time we stopped skirting the true issue. Anything that undercuts the Government of El Salvador also undercuts the will of the Salvadoran people who have voiced their feelings time and time again in free, and fair and open elections, at the polls, and have rejected what the FMLN have to offer.

So Mr. Chairman, let us stop torpedoing this democratic ally of ours in El Salvador and let us support full funding for the people of El Salvador and support the Broomfield amendment.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I am happy to yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Chairman, it takes a lot more than elections to make a democracy. We have had a lot of autocratic governments and elections. It takes a free press. There is none in El Salvador. It takes an independent judiciary, and there is none in El Salvador. There is not a democracy.

Mr. LIVINSTON. The gentleman from Wisconsin was not there at those elections or the polls where the people voted for this government and 95 percent of those people turned out at the polls.

Mr. FASCELL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I rise in strong support of the Murtha-Moakley amendment to cut military aid to El Salvador by 50 percent for the current year, 1990, and next year.

The key to this bill is that, for the first time, it provides a real incentive for each side to negotiate successfully an end to the killing. I do not think I need to remind my colleagues in this Chamber that there are people on both sides of the El Salvador conflict who do not want successful negotiations. It would allow the President to restore the aid if the FMLN backed off the peace process, and it would give him authority to cut the military aid further if the El Salvador Government failed to negotiate seriously.

During this debate, some have said that it is playing politics to put an El Salvador amendment on this bill for Nicaragua and Panama, but the Broomfield amendment itself recognizes this bill is an appropriate vehicle for El Salvador policy because that is where it is being offered.

Some here say that we should not "tie the hands of the civilian Cristiani government" with this amendment. The fact is that there is over a year's worth of military aid already in the pipeline, some of it still left over from 1989. The Murtha-Moakley amendment would have no significant military effect in the field. But it would send a very important signal to both sides that the United States is serious about negotiation, and we want them to be also.

Finally, some here say that this is "not the right time" to bring this matter up. When is it the right time, if not now?

In November as we were last considering El Salvador aid, we were told we should not bring up any limiting or conditioning amendment because we did not know who committed those heinous murders of the Jesuit priests. In fact the gentleman from Michigan [Mr. BROOMFIELD] and others said that it probably it was the FMLN guerrillas that did it, and it would be too hasty for us to cut aid at that time. But 6 months have passed, and we now know that it was not the FMLN guerrillas but the military itself that committed these murders.

That is why we cannot call this government in El Salvador democratic. This is a country where the official military has been responsible for more torture and murder of unarmed civilians, often executed at point blank range, than the FMLN. There are heinous acts committed by both sides, but in financing the El Salvador military we are financing a military that murders its own civilians, executes its own priests, rapes its own nuns, bombs its own villagers. How can we stand up for democratic and American values if we keep financing that system without attaching any conditions? If this is not the right time to stand for our values, when would be?

The Murtha-Moakley amendment is serious, it is not playing politics. It would not tie the hands of the civilian government. This is the right time to stand up for basic American values.

We have spent 7 years and $4 plus billion in El Salvador without any serious conditons on the aid. We have not seen peace. We have not seen serious negotiations. We have not seen an end to human rights atrocities by the army. If we are not willing to put conditions on now, after what we have seen what moral commitment can our Nation claim?

It is time to put serious limits on this aid that will lead to an end of the killing.

Please support the Murtha-Moakley amendment.

□ 1650

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I had the privilege of being the senior Republican in our delegation that went to El Salvador to investigate the murder of the Jesuits. I am absolutely astonished at some of the things I am hearing said on this floor today. I am astonished to have heard the allegation that Herbert Anaya was killed by soldiers. Herbert Anaya was killed by the FMLN Communist terrorist guerrillas.

He was captured, he confessed and only when his family was threatened with death did he attempt to recant.

Ladies and gentlemen, we see here today an attempt to create what might be called moral symmetry between a duly elected, democratically elected Government of El Salvador and FMLN Communist terrorist guerrillas. It is wrong, it is dead wrong.

We are not dealing here with Sunday school teachers on the one hand, these FMLN Communist guerrillas; we are dealing with brutal terrorists.

Mr. Chairman, I brought back with me from El Salvador an AK-47 which was captured, taken from an FMLN Communist terrorist name Gallardo.

While it is not proper to bring that AK-47 here on the floor today, I have brought the silencer that was taken from that Communist terrorist guerrilla that was on that AK-47. And when Gallardo was interrogated and asked, "What do you use that AK-47 for? and most particularly, "Why do you have a silencer on it?". His answer was, "We in the FMLN use it to extract what might be called revolutionary justice."

Now, we all know revolutionary justice means assassination, assassination not of one or two or three or four but assassination of duly elected mayors, assassination of people who have the courage to stand up and speak in support of a democratically elected government.

Ladies and gentlemen, there is no moral symmetry here. We are talking about vicious Communist terrorists on the one hand and a duly elected government that is trying to bring about a better standard of life and bring about peace in El Salvador.

Now, it is true that historically there were death squads and the death squads and the military brutally murdered hundreds of innocent civilians. It was certainly true in the early 1980's.

But thank goodness we saw Napoleon Duarte bring an improvement to that situation; thank goodness we saw President Cristiani bring a further improvement to that situation. And today, while there are some excesses and nobody condones the murder of the Jesuits, the jury is still out on that and we should not destroy the Government of El Salvador. We should support the Broomfield amendment when the opportunity comes.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of the bill and specifically the provisions which reduce and condition military aid to El Salvador.

Mr. Chairman, this bill provides the authorization for the foreign aid funds for Panama and Nicaragua which passed the House last month. I support providing aid to Panama to help it rebuild and promote the establishment of the fractured democratic institutions. The $470 million authorized by this bill will provide loans, credit and contributions to an international account enabling Panama to pay its debts to the International Monetary Fund. In addition, the bill authorizes $340 million in economic support funds for Nicaragua, as well as smaller amounts for Haiti, the Caribbean, and Africa.

For the first time, the House is considering legislation to withhold a large portion of the military assistance we provide to El Salvador. I believe such an action is needed to create strong incentives for both sides to negotiate for peace in El Salvador. Today we can send a message to the FMLN and the Government of El Salvador that this bloody struggle must end. Rather than prolonging the conflict, our Nation and American taxpayers can be an instrument of peace for this war-torn country.

Over the past 10 sad years, more than 70,000 Salvadorans have died and thousands more have been injured or made homeless by the civil war. The victims of this war have ranged from Archbishop Oscar Romero and other priests and nuns to labor activists, from Salvadoran Army leaders to peasant women and children. Most casualties have been innocent civilians—bystanders in a war between the Armed Forces, death squads and the guerrilla forces.

Since the election of President Cristiani last year, the level of violence and human rights abuses has regretably increased sharply. The decline of the centrist Christian Democratic government and the rise of the ARENA Party has clearly polarized the nation and led to greater extremism on both the right and left. The circumstance has gone from bad to worse. There has been a resurgence of murders by rightwing death squads as well as increased attacks by the FMLN forces.

Americans were particularly outraged by the last year's murder of six Jesuit priests and their housekeeper and her daughter. The priests were thoughtful proponents of peace who had been working for a negotiated settlement for many years. Their brutal murder allegedly by members of the Armed Forces was the worst example to date of the military ignoring civilian authority and taking the law into their own hands.

The investigation into the Jesuit murders has shown the inadequacy of the Salvadoran justice system. The Speaker's Special Task Force on El Salvador found a number of problems with the Government's investigation. These include the failure to investigate senior military officers other than Colonel Benavides and the lack of progress on gathering evidence against those already arrested. The task force also pointed out a lack of outrage or moral condemnation among senior military officials about the crime. Furthermore, the slipshod investigation is an the Salvadoran justice system at its best—a clear indication of the bankruptcy of El Salvador's criminal justice system. Thousands of other crimes have yet to even be investigated, much less brought to conclusion.

Several recent developments are cause for deep concern. Four soldiers who might have testified about the killings have been sent abroad. The colonel's diary and the log of the military school have incredibly disappeared. A number of other leads have been ignored. As of mid April, the investigation appeared to be at a standstill.

The bill addresses the inadequacy of the investigation by threatening a full cutoff of military aid if the Government fails to conduct a thorough and professional investigation into and prosecution of those responsible for the murder. A full cutoff would also be triggered if the Government declines to engage in good faith negotiations toward a cease-fire. The bill would restore all military aid if the FMLN fails to negotiate or if they receive significant military assistance from outside the country or if Cristiani's government is threatened by an FMLN offensive. I am hopeful that these carefully considered and well-balanced provisions will lead both sides to the negotiating table.

The United States has a special responsibility to assure that the Government of El Salvador is respecting human rights and vigorously pursuing a political settlement. Over the past 10 years, we have supplied over $4.5 billion in military and economic assistance to El Salvador and continue to provide over $1 million per day. While I understand the right of the government of El Salvador to restore and maintain order, the recipients of our aid should meet basic standards in the area of human rights and in efforts to reach a political settlement.

Despite the bleak outlook in El Salvador, there are reasons for hope that the decade long civil war will end. The people of El Salvador are tired of the prolonged conflict and want peace. The recent peace initiative of the U.N. Secretary General has yielded a commitment from both sides to negotiate. The end of hostilities in neighboring Nicaragua has contributed to a general lessening of tension in the Central America region.

I urge my colleagues to join me in supporting the Moakley-Murtha language on El Salvador to help the fragile peace process in El Salvador along.

Mr. SOLOMON. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, during the debate on the rule, I mentioned briefly the misgivings I have concerning this bill. Generally, I am concerned that a simple request by the administration to provide $720 million in emergency assistance to the struggling new democracies in Nicaragua and Panama has ballooned into an omnibus foreign aid package, replete with the language of micromanagement. More specifically, I am concerned about title V—the provision concerning aid to El Salvador. It is this provision that is largely responsible for the delay in bringing this bill to the floor. And it is this provision that makes such a mockery of the bill's announced purpose: to aid emerging democracies.

At the very least, Mr. Chairman, title V represents a kidney punch at the administration. President Bush and Secretary of State Baker have bent over backward to come to terms with Congress on Central American issues. The very fact that we can today call Nicaragua an emerging democracy is testimony to the success of that kind of an approach. And then along comes title V.

Only last week, Secretary Baker reiterated his assurances that the administration is willing and prepared to reach a bipartisan accord with Congress concerning El Salvador. But here Congress sits, months after President Bush requested aid for Nicaragua and Panama, holding those two countries hostage for the sake of doing some posturing on El Salvador. Let's look at the substance of title V; 50 percent of our military aid for El Salvador would be withheld right up front. And the FMLN Communist guerrillas would be given a de facto veto over that 50 percent, so long as their political representatives sit at a conference table and present a good appearance.

As a matter of fact, the only way El Salvador could receive the full amount, or close to the full amount, of aid requested by the administration, would be if the President certifies that the guerrillas are conducting, quote "substantial and sustained military operations that are jeopardizing the survival of the constitutional government of El Salvador." In other words, my colleagues, El Salvador gets the aid just as soon as the guerrillas are on the brink of victory. What kind of nonsense is that. Once again, Congress is a day late and a dollar short.

Mr. Chairman, title V is based on the premise that the Government of El Salvador, which has conducted six internationally observed elections, is morally equivalent to the guerrillas, which have never participated in any electoral process.

There is not a single word in title V about human rights abuses by the guerrillas. Not a single word is said, for example, about 3,000 innocent people killed by the guerrilla terrorist offensive in the cities of El Salvador last fall. Not a single word is said about

the guerrillas walking away from the peace table time and again, or about the guerrillas using innocent civilians as shields to wage war behind.

In short, Mr. Chairman, I would cite the Washington Post editorial of May 15—1 week ago today. The editorial presented a strong case for why military aid to El Salvador must continue. And in summary, it said, quote, "A vote for an aid cut is, perversely, a vote to fuel the war and burden negotiations," and kill more people.

Before concluding, Mr. Chairman, I would like to comment on the congressional procedures that are included in title V, the reason why this bill was subject to a sequential referral to the Rules Committee.

These procedures are advertised as being a so-called expedited process for Congress to provide aid to El Salvador after we receive the necessary certifications from the President. But, in fact, these procedures are so convoluted and fraught with ambiguities, as to defy description.

I will insert two analyses prepared by the Republican staff of the Subcommittee on the Legislative Process. One is an itemized list of problems and inconsistencies found in these procedures. The other is the minority views signed by every Republican member of the Rules Committee.

Suffice it to say right now, that the procedures whereby withheld funds could be made available to El Salvador are anything but expedited. Reading from the minority views in the committee report:

While it may not have been the intention of the drafters of this section to permit an "expedited" process to drag on for 7 months, there is no question that that is exactly what could happen under the bill as presently drafted.

The minority views then go on to detail all of the procedural gimmicks that would be available to opponents of aid to El Salvador.

And I would add that the Moakley-Murtha amendment does not make a bad provision better. As much as I like my good friends JOE MOAKLEY and JACK MURTHA, I have to say that their amendment offers only a marginal improvement compared with the bill's present conditions on leveraging the military aid. And the Moakley-Murtha amendment retains, word for word, the same convoluted procedures for expediting aid that I referred to a moment ago. All the same gimmicks would be available.

Mr. Chairman, title V is as ill-conceived as it is ill-timed. At a time when U.S. policy in Central America is bearing fruit, title V represents a regression, a return to partisan kidney punching at its worst. Title V should be changed via the Broomfield amendment. Failing that, it should be stricken from this bill altogether.

Mr. Chairman, earlier I made reference to the convoluted and ambiguous procedures that would govern the congressional response to a certification by the President that conditions in El Salvador warrant the delivery of military aid to that embattled country.

As you know, title V of H.R. 4636 withholds the bulk of United States military aid to El Salvador for fiscal year 1991, pending Presidential certification to Congress that conditions warrant the delivery in full of such promised aid.

The procedures which would govern the congressional response to such a certification have been advertised as being an expedited process for releasing the aid that had been withheld. A closer examination, however, reveals that these procedures are fraught with ambiguities and inconsistencies.

The Republican staff of the Subcommittee on the Legislative Process, Committee on Rules, has prepared a detailed analysis of the problems posed by these procedures.

For the benefit of my colleagues, I would like to insert in the RECORD an itemized list of the specific anomalies and ambiguities in these procedures, as well as the minority views of H.R. 4636 that were signed by the four Republican members of the Committee on Rules.

SUMMARY OF PROCEDURAL PROBLEMS WITH EL SALVADOR AID PROVISIONS OF H.R. 4636, SUPPLEMENTAL FOREIGN ASSISTANCE AUTHORIZATION

Title V of H.R. 4636 places various limits and conditions on U.S. military assistance to El Salvador. In fiscal 1991, the bill authorizes $85 million in such assistance, but withholds half unless the President makes certain determinations regarding the FMLN (rebels). Moreover, of the half that is not withheld, only half of that (i.e., one-fourth of the total) may be made available prior to March 1, 1991, at which time the President must report to Congress on the actions of the government and the FMLN towards achieving a negotiated peace.

The remaining unwithheld funds shall be made available at that time but may not be expended until the expiration of a 30-day congressional review period of the President's report. Any joint resolution reported from the House Foreign Affairs or Senate Foreign Relations Committees during the 30-day review period which places conditions or limits on fiscal 1991 military aid for El Salvador shall be privileged for consideration on the third day after it is reported or at any time thereafter.

Sec. 501(h) of H.R. 4636 establishes the expedited procedures for such joint resolutions. These procedures pose the following problems:

Any joint resolution reported prior to March 31, 1991, would remain privileged through Sept. 30, 1991; it need not be considered during the 30-day review period.

The prohibition on the inclusion in a joint resolution of provisions which are not "germane" to the limits and conditions of the joint resolution is not an appropriate parliamentary term since germaneness is used only with respect to amendments (provisions of a measure cannot be nongermane to that measure).

The four hours of general debate time is divided between a Member favoring and a Member opposing as opposed to the customary division of general debate time between the chairman and ranking minority member of the reporting committee; the bill permits amendments in the House, when it should be the Committee of the Whole, and limits debate time on them to such time as ordered by the House, when it should be under the five-minute rule. (Absent a rule, or a unanimous consent request or motion on each amendment, the House is not in a position to order time limits on amendments).

The bill provides that the final passage vote in the House would occur on the joint resolution and those amendments adopted in the Committee of the Whole. Any amendment adopted in the Committee of the Whole must first be readopted by the House.

MINORITY VIEWS ON H.R. 4636

The Rules Committee received a joint referral of H.R. 4636 because section 501(h) establishes procedures for the consideration by Congress of joint resolutions placing conditions or limitations on fiscal 1991 U.S. military assistance to El Salvador.

Section 501(h) is misleadingly headed, "Expedited Congressional Review Procedures." While the bill ostensibly creates a 30-day congressional review period for a presidential report, it actually authorizes up to seven months during which a privileged joint resolution could be considered by Congress.

Section 501(b)(2)(c) makes the balance of unwithheld funds available on March 1, 1991, when the President is required to issue a report to Congress on the progress of peace negotiations in El Salvador; but it bars the expenditure of those funds for 30-days "in order to provide time for congressional review of the report."

Section 501(h) defines "privileged joint resolution" as any joint resolution containing a limit or condition on military aid to El Salvador for fiscal year 1991 which "is reported" by the House Foreign Affairs or Senate Foreign Relations Committees "during the 30-day period beginning on March 1, 1991." The bill does not, however, require that the resolution be considered by Congress during that same 30-day review period. It only prohibits its privileged consideration prior to the third day after it is reported. There is no limit as to how long after it is reported it would remain privileged for consideration.

Since the joint resolution can only deal with fiscal 1991 funds, it would only be applicable for the balance of that fiscal year, that is, through September 30, 1991. At that point, any military aid still in the pipeline must be converted to humanitarian assistance under the terms of the bill.

While it may not have been the intention of the drafters of this section to permit an "expedited" process to drag on for seven months, there is no question that is exactly that could happen under the bill as presently drafted, so long as the resolution is reported prior to March 31, 1991.

This opens the way for all kinds of mischief. It could happen that such a joint resolution (or several) could be reported within the 30-day time frame without any plans for immediate floor consideration. And yet, several months later, should a hitch occur in negotiations, it might be called up in the House without any review of or hearings on the actual circumstances, simply to embarrass the Administration.

We are especially surprised that the Rules Committee majority even tepidly embraces such an open ended "expedited" process that both circumvents the Rules Commit-

tee's involvement and takes away the leadership's scheduling prerogatives. As the majority report notes:

Generally, the Committee takes a dim view of including expedited procedures in legislation and has worked with committees to minimize the practice.

We are even more astounded, though, as to the reason given for the committee's support of these particular expedited procedures:

However, the Committee notes that the procedures used in this bill are structured to allow a certain degree of flexibility in the consideration of a joint resolution.

Referring to seven months of "expedited congressional review procedures" as a "certain degree of flexibility" has to take the prize as the parliamentary understatement of the 101st Congress. If the joint resolutions were given any more flexibility they would be double-jointed.

We have no objection to expedited procedures in certain situations in which prompt congressional review and action is necessary to accommodate the implementation of executive actions. The committee and conference process is not designed to respond as quickly as might be necessary in such cases. This is the first time, however, that we can recall seeing an expedited review period that could stretch for up to seven months. Ordinarily the periods run 30-, 60-, or 90-days at the most.

There are other procedural problems with subsection (h): it prohibits nongermane provisions in joint resolutions yet bars points of order from being raised; it divides general debate time between a Member favoring and a Member opposing instead of the customary division of time between the reporting committee's chairman and ranking minority member; it provides for debate on amendments "in the House of Representatives to the extent ordered by the House," while at the same time implying that consideration is on the Committee of the Whole under the five-minute rule; and it prohibits separate votes in the House on amendments adopted in the Committee of the Whole.

In summary, subsection (h) is a procedural abomination. We strongly urge support instead for the minority substitute which remedies these procedural failings as well as making substantive improvements in the policy aspects of Title V.

JAMES H. QUILLEN.
JERRY B. SOLOMON.
LYNN MARTIN.
CHARLES PASHAYAN, Jr.

□ 1700

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. Goss], a distinguished member of the Committee on Foreign Affairs.

Mr. GOSS. Mr. Chairman, I think my colleagues have covered most of the salient points with regard to what is going on with the FMLN, the brutality, identifying them for what they are—Communists bent on terrorism.

What I want to talk about is how well the Government of El Salvador is doing right now in terms of its approval ratings in its own country. I quote here from a recent public opinion survey conducted by CID of Costa Rica. Members will recall that that was the firm used by former President Arias of Costa Rica, and frankly the only firm to accurately predict the Chamorro victory in Nicaragua. That firm poll indicates that President Cristiani presently holds a 72-percent favorable rating. The same survey also indicates a 72-percent popular support for the Salvadoran military, and an 80-percent favorable rating of the United States. Salvadorans are largely blaming the FMLN, Cuba, and Nicaragua for the civil war.

Mr. Chairman, I would also like to point out that earlier this year when I was in El Salvador speaking with President Cristiani, I asked specifically the question, what will happen if we send a signal from the U.S. Congress that we are cutting aid to the military in El Salvador? The President looked me in the eye and he said, "That will be a signal for the FMLN to go out and create a wave of terrorism." Well, Mr. Chairman, as a matter of record, just a few days after the Committee on Foreign Affairs did, in fact, vote in an amendment to cut aid, that a wave of terrorism, orchestrated by the FMLN, did take place, nationwide, in El Salvador. People were killed, women, children, innocent victims, as well as combatants. That is unacceptable.

I urge my colleagues to face the real facts in El Savador, what is really going on down there, support the Broomfield amendment. It is the right way. It is the right balance of carrots and sticks, and I think that the other proposals although well-intentioned, miss the mark.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, I thank the chairman of the full committee who has done as good a job as he could do in attempting to draft a first supplemental foreign aid package, but all of the debate we have heard this afternoon seems to be whether or not we are going to provide military aid for one side or the other in El Salvador, who are killing each other.

They are talking about the President wanting a mere $700 million besides the supplemental foreign aid. Supplemental foreign aid means over and above the already some $20 billion we have spent in foreign aid in this fiscal year.

I am here to talk about what is here for the United States of America. We are talking about who is killing who in El Salvador, and we cannot determine, if the U.S. Congress can be evenly divided, we cannot decide who is killing who. Yet we are talking about spending not $700 million but almost $1 billion in foreign aid in the supplemental aid package. We are providing money for housing, we are providing money for small business, we are providing money for the military on this side and the military on that side.

There are communities in need all over this country. I receive calls from small business people who are on the rocks, who need the help of their government. They cannot get it. I receive calls from people in this country who need housing, senior citizens. So much is needed in this country, and yet we stand here and debate hour after hour of spending another mere billion dollars, sending it around the world, and we do not even know who is killing who.

Mr. BROOMFIELD. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. HOUGHTON], a member of the Committee on Foreign Affairs.

Mr. HOUGHTON. Mr. Chairman, I would like to just take a little different track here. I support the Broomfield substitute amendment really because it de-emotionalizes the issue, and is the practical way of getting at what the real bill is all about, which is help to Nicaragua and to Panama.

There are really two issues here. There is the El Salvador issue which has its own tragedies. But really, when we take a look at the need here, it is for the need to prevent the financial collapse of two critical countries. One is Panama, the other is Nicaragua, which we were part of the process of provoking.

They would not be considered in the package if they were not in the same part of the world. I submit that there is no tie-in. I submit the El Salvador issue is not germane. I submit furthermore, that I feel so strongly about this that I would even vote for the Studds amendment if it were separated from this bill, which goes to the part of the need of two great nations.

The CHAIRMAN. The gentleman from New York [Mr. SOLOMON] has 5 minutes remaining, the gentleman from Michigan [Mr. BROOMFIELD] has 13 minutes remaining, the gentleman from Florida [Mr. FASCELL] has 9 minutes remaining, and the gentleman from Massachusetts [Mr. MOAKLEY] has 15 minutes remaining.

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

Mr. Chairman, later during consideration of this bill, my colleague from Pennsylvania [MR. MURTHA], will join me in offering an amendment to address the current realities in El Salvador, and I will ask for the support of my colleagues on this measure.

Yesterday both the FMLN and the Salvadoran Government signed a statement after 5 long days of negotiations indicating that "a cease-fire could occur before mid-September." Before that happens, however, both sides will engage in a series of talks on delicate issues such as reform of the

armed forces, human rights, electoral and constitutional reform, and the economic and social situations.

Mr. Chairman, today the United States Congress has the opportunity to help make that cease-fire—and an eventual negotiated end to the war in El Salvador—a reality.

This is not the first time the FMLN and the Salvadoran Government have talked, and this is not the first time we have heard lofty statements emanating from both sides. But if this is the first time that they are serious about peace, then let this Congress show it is equally serious.

The provisions in the Moakley-Murtha substitute make it more likely that both sides will keep their word.

Quite frankly, I do not have a whole lot of trust in either the FMLN, or the Salvadoran Armed Forces. They both lie and they both play politics with other peoples' lives.

Let us provide the necessary pressures to make a continuation of the current war policy less likely.

Mr. Chairman, over 70,000 Salvadorans have been killed in a conflict that has raged over a decade. And there are elements in both the right and left who are interested not in peace—but in a continuation of the war in order to sustain and expand their own power base.

I hope this Congress has had enough. I know the people of El Salvador, who have suffered enormously, want an end to the war and all of its horrible consequences.

Let us finally stand up for the majority of Salvadorans, who have said over and over again that they want peace now. Support the Moakley-Murtha substitute and support the peace process.

And I also urge my colleagues to vote "yes" on final passage of H.R. 4636—the fiscal year 1990 Supplemental Authorization for Emerging Democracies.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has expired.

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

Mr. MOAKLEY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I think the gentleman who just spoke is absolutely entitled to his opinion. He was down there, and he can make his own judgment. I have no quarrel with that. But he showed a lot of arms that were coming in, and under the Moakley-Murtha amendment, once the aid is cut and these things happen, of course, the military aid goes up to 100 percent, so the Government or the military of El Salvador does not loose anything.

At this time I would like to read a statement from Dr. Fidel Chavez Mena, Secretary General of the Christian Democratic Party of El Salvador, and former Minister of Foreign Relations and Economic Planning in the Duarte government, who expressed the belief of his party——

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield just for a second?

Mr. MOAKLEY. I yield very briefly.

Mr. BURTON of Indiana. I have one real quick question.

Mr. Chairman, for years we have been alleging that weapons have been smuggled into El Salvador, and Members on the gentleman's side of the aisle have been denying they have been smuggled in. If this amendment passes, how are we going to know if the FMLN continues to have weapons smuggled in? We know that they just came in earlier this year.

Mr. MOAKLEY. Mr. Chairman, under the Moakley-Murtha amendment, if the President is convinced that a significant number of arms is coming into the FMLN, then he raises the money back up to 100 percent where it was before.

Mr. BURTON of Indiana. What does "significant" mean? The use of the word "significant," clearly means that some unidentified lesser level of weapons is acceptable.

Mr. MOAKLEY. "Significant" will be determined by the President, who will make the judgment.

Mr. BURTON of Indiana. But the gentleman himself does not have any definition of what "significant" means?

Mr. MOAKLEY. I cannot tell the gentleman what "significant" is. It means more than a lesser amount.

Mr. BURTON of Indiana. But the gentleman is the author of the amendment.

Mr. MOAKLEY. That is right, but "significant" will be determined by reasonable people under reasonable circumstances.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the chairman of the committee.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

Of course we knew that arms were being smuggled to the FMLN, and we had an investigation of it. We found out how it was done and how much of it was done. So it can be determined.

Under the legislation we are talking about here, the President would make that decision. I cannot imagine that the gentleman would find something with that. I thought I understood him correctly. Or did I misunderstand him?

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I just think when we are getting into this area, which is a very gray area as far as I am concerned, relative to the security and safety of El Salvador, if we are going to pass legislation dealing with the security of this nation and whether or not weapons are coming in or out, we ought to be more definitive than we are with this particular language. Just saying "significant" is not enough for me.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MOAKLEY] has expired.

Mr. MOAKLEY. Mr. Chairman, I yield myself 3 additional minutes.

Mr. Chairman, I will tell the Members what the word "significant" does not mean. The word "significant" does not mean one member of the FMLN walking down the street with a rifle over his shoulder. "Significant" is a term that will be determined by the President and his military advisers. I do not think there is any big question there.

Mr. BURTON of Indiana. Would the gentleman let me ask one more question? Would the gentleman yield?

Mr. MOAKLEY. Go ahead.

Mr. BURTON of Indiana. Mr. Chairman, let me quote this:

> The Esquipulas II (Arias) peace plan calls for the cessation of overt and covert military aid to insurgent forces "as an essential requirement for achieving a stable and lasting peace in the region."

Why would the gentleman want to go against the Arias agreement? This is a complete cessation, and the gentleman is saying, "significant." We are talking about all of it.

Mr. MOAKLEY. Mr. Chairman, we are talking about the carrot-and-stick, determining future aid to El Salvador, and that is why the word "significant," is used.

Mr. BURTON of Indiana. The gentleman did support the Arias peace plan, did he not?

Mr. MOAKLEY. Absolutely.

The CHAIRMAN. The gentleman will suspend.

The Chair will state that if the gentleman from Indiana or any other Member wishes a Member to yield, he should put the question to the Member who has the time.

Mr. BURTON of Indiana. Mr. Chairman, I did ask the gentleman to yield.

The CHAIRMAN. The Chairman recognizes the gentleman from Massachusetts [Mr. MOAKLEY], and if he wishes to yield, he may do so. The Chair recognizes him further at this time.

□ 1720

Mr. MOAKLEY. Mr. Chairman, as I said, in a recent statement by Dr. Fidel Chavez Mena, Secretary General of the Christian Democratic Party of El Salvador, and former Minister of Foreign Relations and Economic Planning in the Duarte government, he expressed the belief of his party that, "if El Salvador is truly moving toward peace, we will need military aid less and less."

His statement goes on to say that:

Freezing half the military aid, as proposed by Congress, makes exactly this point. If negotiations between the government and the FMLN advance toward concrete agreements, and if the FMLN abides by them, the frozen fifty percent will not be necessary and will not be delivered. We suggest that these funds be converted into direct economic and humanitarian assistance to further the investment in democracy and peace, which El Salvador wants and the United States has supported.

In sum, we believe, as did our late President Jose Napoleon Duarte, the founder of our Christian Democratic Party, that a combination of international pressure and support is beneficial to the negotiating process.

Mr. Chairman, that is a statement by Dr. Fidel Chavez Mena, Secretary General of the Christian Democratic Party of El Salvador.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I thank the gentleman from Michigan [Mr. BROOMFIELD], the distinguished ranking member of the full Committee on Foreign Affairs, for yielding, and I would like to, of course, express my appreciation to the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished chairman of the Committee on Rules.

Mr. Chairman, I had the privilege of going to El Salvador, as some said earlier, to participate in that very important, but tragic, task force that went to investigate the murder of Father Ellacuria and the other Jesuits. It seems to me, Mr. Chairman, that we have a real tragedy here, and I think that the President of the United States has said it several times very emotionally.

If we had thought 1 year ago today that we would see Manuel Noriega out of office, out of control of Panama, and Daniel Ortega out of control of Nicaragua, most everyone in this House would be absolutely stunned. At that time, if we had in a bipartisan way talked about putting together some kind of aid package which would assist these people, who have been living under the repression of Noriega in Panama and Ortega in Nicaragua, I believe that we would have had complete bipartisan support for that package.

Mr. Chairman, that is exactly what the President of the United States is calling for here. He wants us to help these people who have, as has been said many times, these fledgling democracies which are attempting to reach out of this deep pit of totalitarianism to some kind of democratic form of government.

Mr. Chairman, they have taken that first and very bold step by having free and fair elections. We saw Guillermo Endara win by an overwhelming margin over a year ago, and we, of course, saw earlier this year, on February 5, Violeta Chamorro win.

Now that we have done everything we can to encourage that process, let us provide these people with the assistance needed.

So, Mr. Chairman, what do we do from this Congress? We decide, following the President's request, to hold hostage that very important package for the people of Panama and the people of Nicaragua.

Mr. Chairman, this is reprehensible, that we would consider in any way preventing the people of Nicaragua and Panama from getting this support without cutting off aid to the duly elected Government of El Salvador.

Mr. Chairman, we have seen for the first time in the history of El Salvador the transition from one democratically elected government to another in the history of that country, and, yes, last November 16 saw a real tragedy, the horrible massacre of those Jesuits. However, Mr. Chairman, it would not have taken place had the FMLN not on November 9 launched the largest urban assault ever in El Salvador, and we have got to recognize that our assistance to the Cristiani government is important.

As one of our Democratic colleagues on that important mission led by the gentleman from Massachusetts [Mr. MOAKLEY] said, "President Cristiani offers the best hope for the future of El Salvador."

Mr. Chairman, we know that he is working diligently on behalf of this package, and we need to ensure that the aid to El Salvador is consistent and strong.

The FMLN cannot get their support from the Soviets, the Government of Nicaragua, or Cuba. They are getting it from the U.S. Congress.

Mr. SMITH of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, this legislation represents the first time in 10 years that the Congress will tell the Salvadoran Armed Forces that they do not have a blank check.

Ten years of giving the administration virtually a free hand and all the military aid they have requested, has resulted in a Salvadoran military which is impervious to civilian control and blindly permissive of human rights abuses.

The case of the six murdered Jesuits and their housekeepers, far from being an isolated case of human rights abuse, is a telling example of the Salvadoran military's contempt for justice. Key witnesses have been sent overseas, evidence in military custody has disappeared, and the judicial system has been intimidated to the point of paralysis. Clearly, the Congress must send a strong signal—and must send it now.

The committee's language on El Salvador deserves the support of the entire House. Passage of this provision would send a serious and unequivocal message to all segments of Salvadoran Society—particularly the combatants on both sides—that the United States is determined to support the negotiating process and the regional movement towards demilitarization and to see that justice is done in the case of the murdered Jesuit priests.

The provisions regarding military aid are clearly aimed at the military sectors of El Salvador, both Government and rebel. Furthermore, the provisions strengthen President Cristiani's ability to respond to El Salvador's needs. Economic and development assistance are not affected and should the 50-percent cut remain unaltered, these funds are converted to development assistance—which would help the neediest Salvadorans.

NOW IS THE TIME TO ACT

Last June, the administration argued that it was not the time to condition U.S. aid because it might signal a lack of support for President Cristiani. The Salvadoran military interpreted the lack of conditioning as a signal that their acts of harassment and abuse were acceptable.

Last September, the administration told the Senate that it was not the time to condition United States military aid because it might undermine talks between the Salvadoran Government and guerrillas. Lack of United State action led the Salvadoran military to again move forward with a campaign to harass, abuse, and attack any segment of the Salvadoran population which was opposed to their actions.

Last November, the administration again argued that it was not the time to suspend part of U.S. military assistance in response to the brutal murders of six Jesuits—that Congress should focus not on the crime but on the investigation of that crime. Lack of congressional action led the Salvadoran military to bring the investigation to a grinding halt.

Now, the administration again argues that a cut in aid would send the wrong signal at a point when negotiations are set to begin. Mr. Chairman, we have been sending the wrong signal all along. It is time to speak unequivocally to both sides and state that the United States is in support of peace and a negotiated settlement to the Salvadoran crisis.

REGARDING PANAMA AND NICARAGUA

The $720 million for Panama and Nicaragua will provide desperately needed assistance for the new and popularly elected governments in those two nations.

The Governments of Nicaragua and Panama are struggling to show their people that democracy can and does

work, that freely elected governments can face down the tremendous economic and social crises which have taken hold of the Central American region.

It is critical that we move quickly on this aid package. To delay would do further damage to our Nation's credibility in the region. We have promised that democracy does work, we have promised aid, and congratulated these new democracies. The time has come to meet our obligations and help these fledgling democracies fulfill their promise.

FREE TRADE WITH PANAMA

In addition to this aid package, I believe it is important to consider ways of increasing trade with these two nations. Privately, the Panamanian Government has expressed an interest in discussing the possibility of a free trade agreement with United States officials.

A free trade agreement would directly benefit the Panamanian private sector, the sector most damaged by United States sanctions, the United States invasion and subsequent looting.

While the $470 million package will be invaluable to the Endara government, it will not automatically spur activity in the private sector. To assure quick private sector growth, and the employment and economic growth that comes with it, Panama must again become an attractive trade and investment center. A free trade agreement with the United States would create such growth.

It is my hope that the State Department and other appropriate agencies will seize the initiative and begin to study the many benefits of a free trade agreement with the nation of Panama.

FORT WORTH, TX,
May 14, 1990.

Hon. BILL RICHARDSON,
House of Representatives,
Washington, DC.

DEAR BILL: When I retired from Congress last year, I vowed I would never lobby or harass my old colleagues about anything. Please indulge me one exception. It involves an area in which I've had a consuming interest—Latin America.

In my considered view, it is extremely important for Congress to move just as swiftly as possible to approve President Bush's emergency request for $720,000,000 in desperately needed economic aid to Panama and Nicaragua.

New popularly elected heads of state in both countries are striving mightily to demonstrate that democracy does work, and that freely chosen governments can come to grips with the staggering economic and social problems that beset the region.

The need is immediate, even desperate. Years of war and mismanagement have crippled the economies of the two countries. The aid proposed by President Bush, modest by our own standards, can make a major difference. It can give those impoverished economies a new lease on life.

It is important to our country's credibility in all of Latin America that we make good on our President's commitment in these particular instances. The delays of our legislative process are difficult at best for many to understand. If our country should renege on a pledge so publicly made, it would give rise to pervasive cynicism as to our motives and reliability.

Moreover, simple justice demands that we help to repair the widespread damage to public infrastructure and the private economy inflicted by U.S. arms and economic embargoes. Democracy can thrive in Latin America only when we show that it promotes economic justice.

Thanks for your consideration. I earnestly believe our early affirmative action is very important in a part of the world that is very important to us. Very best personal regards.

Sincerely,

JIM WRIGHT.

SIDE-BY-SIDE COMPARISON OF THE EL SALVADOR LEGISLATION

	House Foreign Affairs Committee H.R. 4636, Title V	Broomfield substitute
Effect on fiscal year 1990 military aid.	50 percent withholding.....	None.
Reprogramming of withheld aid.	rechanneled into humanitarian aid.	None.
FMLN: Incentive to meet conditions of language.	50 percent military aid withholding maintained.	No incentive.
FMLN: Punishment if conditions are not met.	Reinstatement of 100 percent of military aid to Armed Forces.	0 to 100 percent reinstatement of military aid—but only if the aid has already been withheld.
Military: Incentive to meet conditions of language.	Maintenance of 50 percent of military aid.	100 percent maintenance of military aid.
Military: Punishment if conditions are not met.	50 percent of remaining aid would be withheld.	0 to 100 percent of aid withheld depending on which of eight conditions are not met.
Resolution of Jesuit case.	100 percent military aid withheld if not resolved.	0 to 25 percent cut in military aid if not resolved.
Time frame for resolution of Jesuit case.	Action would be taken 6 months after murders.	Action would not be taken for at least a year after the murders.
in case of military coup.	100 percent withholding.....	100 percent withholding.
Judicial reform	Promotes negotiations and allows the GOES and FMLN to resolve the reform question through the negotiations process.	Preempts the negotiations process by removing reform from the list of issues to be dealt with in negotiations.
Separation of police from military.	Leaves this issue in the hands of the negotiations process.	Offers $2 million in police aid even if the police are not separated from the military.

CRITIQUE OF THE BROOMFIELD SUBSTITUTE AMENDMENT ON EL SALVADOR

CONCLUSION

The greatest weakness of the Broomfield amendment is its failure to signal strongly enough Congress' concern about the need for further reform of the Salvadoran military.

BACKGROUND

The Salvadoran military for many years has operated as a power unto itself, above the law and beyond the control of civilian authorities. This has proven to be as true during the tenure of President Alfredo Cristiani as it was under his predecessor, Jose Napoleon Duarte, notwithstanding the best efforts of each. Human rights abuses and massive corruption have been carried out with impunity.

The likely involvement of high level military officials in the November, 1989 murders of the Jesuit priests and their two associates has focused attention on the role of the military in Salvadoran society. The success of the current negotiations, of judicial reform, of efforts to improve human rights practices and establish a pluralistic democracy depend heavily on the extent to which the military can be made accountable to civilian authorities.

TALKING POINTS

1. The provisions related to the investigation and prosecution of November, 1989 murders of the Jesuits and their associates does not reflect the commitment made by the House last November with regard to this case.

The House, by a 409-3 vote last November 20, approved a resolution that "states unequivocally that a satisfactory resolution of this case is a pivotal test of El Salvador's democratic and judicial institutions and will be instrumental in determining continued U.S. support for the Government of El Salvador."

The Speaker's Special Task Force on El Salvador recently concluded that "the investigation and preparations for prosecuting the case have come to a virtual standstill. This is true both with respect to any investigation of possible senior officer involvement in the crimes, and to the gathering of further evidence against those already arrested. This lack of Salvadoran law, make it less and less likely that full justice will be done."

Under the Broomfield amendment U.S. policy toward El Salvador remains unchanged for another six months. With respect to the Jesuit case, no action would be taken before November, 1990—a full year after the murders. At that time, if the President determines that the government "is failing to conduct a thorough and professional investigation into, and prosecution of those responsible" for the murders, he must withhold up to 25 percent of the FY 91 military aid.

The November House resolution, together with Foreign Affairs Committee approval of a 50 percent "up front" withholding have created expectations both in the U.S. and in El Salvador. Approval of the Broomfield amendment, despite the conclusions of the Speaker's Special Task Force and recent additional information concerning problems in the case, would signal a failure of will on the part of the House. Such action is likely to undermine those in El Salvador—both within and outside the military—who are seeking to make the military accountable to the civilian authorities.

2. The current situation in El Salvador calls for clear, unequivocal action. The Broomfield amendment relies heavily on a process of conditioning aid that has been tried and proven largely ineffective.

The Broomfield amendment proposes to authorize expenditure of the full amount of military aid, and later review the performance of the government on specific criteria before determining whether to suspend a portion of the assistance.

This approach has been used in the past and has proven ineffective for two reasons:

First, the previous U.S. Administration demonstrated a willingness to certify progress on conditions where little or none existed; and

Second, the language of the conditions often reflected the ambivalence of Members of Congress who wanted to see improvements within El Salvador but were not willing to support a suspension of aid.

The current situation in El Salvador calls for clear, unequivocal action on the part of the U.S., such as that reflected in the House

Foreign Affairs Committee recommendations. Archbishop Roger Mahony made this point on behalf of the United States Catholic Conference: "By initially withholding a substantial portion of the military aid as yet unexpended in the current year and of that already authorized for next year, demonstrates that failure to respect human rights will have real consequences. It also demonstrates our active and strong commitment to the peace process . . . the enormity of the murders of the six Jesuit priests and the two women at the UCA, and of so many other unpunished crimes, calls for new approaches that clearly signal an end to business as usual."

The approach embodied in Title V of H.R. 4636—the immediate withholding of a substantial portion of aid—has been used on one other occasion. In FY 84, 30 percent of military aid was withheld until a verdict was rendered in the case of the murdered American church women. In the absence of strong action by Congress the case had languished in the Salvadoran judicial system for three years. Once aid was withheld, a verdict (albeit one that did not investigate or prosecute higher level military officers) was rendered within months.

3. The Broomfield amendment provisions concerning administration of justice programs and democratic initiatives cannot succeed until the Salvadoran military demonstrates a greater willingness to submit itself to civilian authority.

The amendment fails to acknowledge the role the Salvadoran military has played in obstructing the administration of justice and democratic initiatives in El Salvador, as well as the obstacles presented by the war itself.

The amendment would, for example, provide funds "to enhance the organizational and leadership skills of the members of such organizations [professional, civic, trade union, business, community, etc.] in order to increase citizen participation in democratic process."

An example reported in the press this week about the disappearance last December of the leaders of an agrarian reform cooperative in San Cayetano, (Department of Ahuachapan) illustrates the problem with the proposals in the Broomfield amendment for judicial reform and democratic initiatives. In addition to these recent disappearances, countless other civic, labor, church, agricultural, and peasant leaders have been murdered, arrested, tortured, disappeared or forced into exile as a result of their civic involvement.

The need to create a climate that allows broad participation in all aspects of civil society, including partisan politics, depends in the first instance on the restraint of the Salvadoran military and only secondarily on technical assistance and leadership training.

4. The amendment fails to take strong action to encourage the current negotiations process. Strong action at this time may enhance the possibility of early agreements that would improve the climate for national elections in March 1991.

Many in El Salvador, from across the political spectrum, are looking to the Assembly and municipal elections in March, 1991, as an important component of an overall resolution of the conflict. A number of reforms are needed, however, if the elections are to be conducted in a way that truly will contribute to peace. This is an area that is likely to be under consideration in the negotiations. With campaign season getting underway by September, 1990, these agreements will have to be reached at an early stage if they are to achieve the desired outcome. The U.S. must signal its seriousness of purpose earlier rather than later if it hopes to encourage successful negotiations on this issue.

THE BROOMFIELD AMENDMENT ON THE SALVADORAN MILITARY

The amendment seeks to address the problem of the Salvadoran military in the following ways:

Requires bi-annual reports from the President including an assessment of government policies with regard to "an end to the involvement in or support for acts of unlawful violence, secret detentions, abduction, torture, and murder by members of military, security, or police forces;"

Provides for the withholding of up to 25 percent of military aid if the President determines and reports to Congress not later than November 1, 1989 or May 1, 1990, that the government: is failing to conduct a thorough and professional investigation into the November, 1989 murders at the University of Central America; is failing to separate the police force from the Armed Forces and establishing a police force under civilian authority; and is failing to reorganize the structure and reduce the size of the Armed Forces following the successful completion of a negotiated settlement with the FMLN.

Requires approval by the Salvadoran president of the obligation or expenditure by the Armed Forces of all U.S. military aid.

The amendment also provides $10 million in ESF for Administration of Justice programs and activities and for a "Support for Democracy Program."

MAY 15, 1990.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Chairman, I rise to emphasize how important it is that the amendment of the gentleman from Michigan [Mr. BROOMFIELD] pass. Let me tell my colleagues where the battle is.

My colleagues have seen what went on in Ceausescu's government in Romania. They saw what happened in Nicaragua. They now see where the focus of attention is.

I recently met some months ago with the Human Rights Commission in Managua. They told about how that all of the support for the international support had been cut off from the Human Rights Commission inside Managua once the Communists took control there. They went back to some of their old suppliers. They went to the World Council of Churches and the other funding sources. They said why is it they are cutting off aid to us, who are human rights people, and they said, my colleagues; get this: Geneva said to Managua, they said, "We are no longer concerned about human rights abuses in Nicaragua. Our next target, our next goal, is El Salvador."

So, Mr. Chairman, I say to my colleagues, "You can just watch the coalition building. Now that they have lost Eastern Europe, now that they are losing Nicaragua, the next goal is El Salvador."

So, we have an amendment that says this. The amendment says that, even if they make progress on human rights, even if they have a serious investigation in the Jesuit case, even if they reform the military and the judicial system, even if they do all of those things, the aid is still cut off. If the Communist guerrilla front organization, the FMLN, refuses to launch an offensive, then the aid from America will still be held in abeyance.

Now, get that, get that, that, as long as the Communists do not launch an offensive, then the aid is withdrawn.

Now, talk about convoluted, backward thinking. I do not have any idea how in the world we can come up with the idea that we give veto power to the Marxist guerrillas that have spent the last 6½ weeks moving all of their caches of supplies from Nicaragua into El Salvador. Now that they are ready to try to undermine the democratically elected government, we are about to pass an amendment in this Congress that says that those people are given veto power over aid to an ally that has a democratically elected government.

□ 1730

Mr. MOAKLEY. Mr. Chairman, for purposes of debate only, I yield 4 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I want to use my time this evening to rise in support of the Moakley-Murtha amendment. This is a balanced amendment which will strengthen this bill and require both the government of El Salvador and the FMLN rebels to meet important conditions. It provides incentives for both sides to remain at the bargaining table.

Most importantly, this amendment contains positive incentives for peace.

The Moakley-Murtha substitute withholds 50 percent of Salvadoran military aid in the fiscal years 1990 and 1991, and links the restoration or elimination of this aid to specific conditions by the FMLN and the Salvadoran military, just as in the bill.

The substitute goes even further than the bill by adding a provision to trigger a cutoff or resumption of all military aid if either side is engaging in violent attacks on civilians.

It further strengthens this bill by requiring that all military aid be approved by President Cristiani, strengthening his hand in dealing with the military.

It authorizes election monitoring funds for the purpose of promoting democracy and monitoring the municipal and parliamentary elections in El Salvador in March 1991.

We need to act now to encourage current negotiations for a cease-fire and lay the foundation for democratic and judicial reforms that will bring all

Salvadorans into the political process by the March 1991 elections.

The United States must demonstrate that we will back up our concern for the murder of the six Jesuit priests, their housekeeper and her daughter, and other equally reprehensible crimes with a real change in policy.

Showing our full support for the Salvadoran government through unconditional aid has not proven successful. It has only helped institutionalize an independently wealthy segment of the military that assumes the United States will continue to fund the war no matter what.

Mr. Chairman, that false sense of security must be removed.

Let there be no mistake about it, the FMLN has also engaged in its share of human rights crimes. The point is that neither side is blameless. The bottom line is that it is time for a change. Justice dictates it and the war-weary Salvadoran people desperately yearn for it.

The United States must put its money where its mouth is. If we abhor human rights violations by both sides, we must support the Moakley-Murtha amendment and institute a positive change for peace today.

This amendment offers a real opportunity to forge a bipartisan policy toward El Salvador. This amendment allows us to constructively demonstrate our frustration over events in El Salvador, while at the same time encouraging both sides to negotiate in good faith.

The substitute would complement, not undermine, the peace negotiations which have recently begun between the Salvadoran government and the FMLN. It provides real carrots and sticks to help prod the negotiations forward.

If either side fails to negotiate in good faith during the peace talks, U.S. military aid will be eliminated or restored, depending on the conduct of the parties.

With this substitute, extremists in both the FMLN and the Salvadoran military will feel the consequences of obstructing negotiations. This substitute is not about punishing the Salvadoran military. It is about supporting those moderates in El Salvador who are seeking to negotiate and end to that terrible war.

I want to support those moderates, and a U.S. policy that will help to end this bloody civil war. I urge my colleagues to support the Moakley-Murtha substitute and final passage of this bill.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. SLATTERY. I yield to the gentleman from Texas.

Mr. COLEMAN OF TEXAS. Mr. Chairman, if I could just for a moment refer to the previous speaker in the well who referred to convoluted thinking. It seems appropriate to me that finally the United States says to everybody else,"We will give you the money after you show us results in terms of your judicial system and bringing those people to justice."

Mr. Chairman, I thank the gentleman for yielding to me.

Mr. SOLOMON. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. DORNAN].

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

Mr. FASCELL. Mr. Chairman, I had one speaker. We are trying to get him here right now, so I will have to reserve the balance of my time for the moment.

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

□ 1740

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I thank my colleague, the gentleman from Michigan, for this generosity.

I must say that from our perspective on this side of the aisle it might be helpful to close our portion of the debate by suggesting that the House just might benefit by focusing on the reality that we come to the floor to discuss this very important issue in our own hemisphere at the very moment when the world is exploding, literally exploding, with hope. Democracy is ablossom around the world, and even in El Salvador, democracy is blossoming.

But, as I understand it, we began this process relative to this bill because we wanted to give some asssitance that was desperately needed to a couple of countries in Central America other than El Salvador, to Panama and to Nicaragua, and now because a few seem to want to link problems that we see in the past in El Salvador to this aid to these other democracies who so desperately need our help, that we are holding up the flow of that aid by the form that this bill is coming to us.

Let me suggest that President Cristiani, the new President elected by the people of El Salvador, is attempting to make real progress in his country. Let me also suggest that President Bush, the President of the United States, has had a fantastic impact in terms of the world's view of our own attitudes about that growth and strength and hope for democracy.

To suggest that we should use this time to return to that recent pattern of the Congress to want to have all us be Secretaries of State would be a very, very big mistake. I have great respect for the chairman of the Committee on Rules, and I understand his concern. I also have great respect for my leader, the ranking member on our policy committee.

The amendment he has crafted is a very, very professional piece of work. It recognizes that the Congress may want to have a careful means of taking a look at what goes on in El Salvador, but suggests that the President of the United States should be given that flexibility rather than our returning to the position of suggesting that we are the Secretary of State or we will serve as the President in this case.

In these closing moments of this debate, I would hope that we would focus upon that most important role of the Congress, that is, to give support to a strong and flexible foreign policy led by a President, I think, who has demonstrated very, very well that he has a pretty good idea as to how we can best help not only countries in Eastern Europe but very important growing democracies throughout our hemisphere as well, particularly El Salvador, Nicaragua, and Panama.

I urge the House to move very carefully here. I would urge the Members to support the Broomfield amendment when we go into that portion of our debate.

But at this point, I think we have discussed the pure partisan rhetoric enough, and it is time for us to focus one more time on what we were trying to do in the first place, and that is to quickly help the countries of Nicaragua and Panama.

Mr. FASCELL. Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. SMITH].

The CHAIRMAN. The gentleman from Florida [Mr. SMITH] is recognized for 7 minutes.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I want to commend the chairman of the Committee on Foreign Affairs for having brought this vehicle to the floor and for having provided leadership consistently along the lines that the President has been asking for.

The previous speaker, the gentleman from California [Mr. LEWIS], was correct; I mean, the initial aspect of this bill was, and still is, with reference to Panama and Nicaragua, but it pains me that for some reason we seem to begin each and every debate not ab initio, not from the beginning and the roots of the problems, but somewhat instanter, from the instant we get in the well; it is as if that new set of circumstances just erupted, that there has been no history, no past.

What is wrong with us? Why do we forget the history of these regions when we discuss foreign aid? Why do we forget what we did yesterday, last year, 10 years ago? Why do we forget what the history of these countries was, the history of the recipient coun-

tries for which our money is intended to provide significant help? It will not, you know, unless we do, in fact, remember the history.

Panama and Nicaragua have had significant and violent histories. We need to remember that they are in a position now with transition to democratically elect governments.

It will not be easy for them to provide all of the aspirations, the kinds of services and the kinds of allocation of goods, of education, of commercial enterprise, of freedom in every aspect all at once.

The basic premise of this bill is that we are going to take from what the President wants to do from the Defense Department money to provide these countries with the hope of being able to increase their democratic strengths, to strengthen democratic institutions and to give them ultimately the beginnings, the framework, the underpinnings of a free society, and we are doing that.

I do not think anybody here really debates that. Yes, there is an amendment about how much we should be involved in trying to make sure that the Panamanians are involved with us in coming to agreements on money laundering. Part of that is already in the bill, and there are some situations regarding Nicaragua and the use of the money, but for the most part we all agree.

But then we get to El Salvador, and again, for some reason, in El Salvador we seem to want to forget history.

The debate over the difference between the Moakley-Murtha amendment, and I commend the gentleman from Massachusetts, the chairman of the Committee on Rules, for his foresight and vision and his commitment to finding the truth in El Salvador; the differences are exacerbated so greatly here.

Mr. Chairman, we have had over 100 years of military rule in El Salvador. Then came Jose Duarte, supported on both sides of the aisle. Some on the Republican side were suspicious at first because he was really not a right-winger, much more of a leftist to moderate, but after time, people began to realize he was really committed to trying to do something to bring his country into the democratic column and to give them some hope in the latter part of the 20th century that they would not be stuck in the 19th century forever.

But he had problems. He had the death squads operating, then, after he was democratically elected just as they had operated previously, and he could not make peace with the FMLN, although people thought he was the best hope.

They kidnaped his daughter and held her hostage. And so we were disappointed, not surprised, but disappointed.

Mr. Duarte now is gone, died, after trying very hard to bring his country into the 20th century, and now we have another duly elected government, Mr. Cristiani from the right, but the death squads are still operating. The Republicans as well as the Democrats will all agree on that.

One of the speakers in the well on this side talked about the fact that the Jesuit priests were killed by the army, but, he said, but we still have to give the army the money they are entitled to.

Why must we forget history? When we have given money unfettered, it has not worked. It did not even work in Nicaragua.

□ 1750

The time that there began to be light at the end of the tunnel was the time we all got together on this floor and put some conditionality on the money and got the rest of the people in the region involved in the process. That is what we are trying to do here again.

The difference between the Moakley-Murtha amendment and the Broomfield amendment is somewhat akin to the Churchill story. We know what they are, we are just haggling over the penalty. I come down and I hope most Members will come down on the side of the Moakley amendment, mainly because it contains one provision that more than any other will be important for the future, for the future of El Salvador, and that is it gives the president of El Salvador more control over the military, which again we should not forget has run rampant in that country time after time through administration of left-leaning presidents and right-leaning presidents. We cannot forget the history of these countries. It is important.

I would urge you to support the Moakley-Murtha amendment and support this bill. This aid must flow. We must be able to establish democracy in the region.

The CHAIRMAN. The Chair would note that the gentleman from Michigan [Mr. BROOMFIELD] has one-half minute remaining and the gentleman from Massachusetts [Mr. MOAKLEY] has 3 minutes remaining.

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

Mr. MOAKLEY. Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise today in support of the Moakley-Murtha amendment to the El Salvador provisions contained in H.R. 4636, the supplemental authorization bill for aid to Panama and Nicaragua.

The committee provisions before us today would provide for an immediate 50 percent cut in military aid to El Salvador, contingent on specific good-faith actions in peace negotiations by both the Salvadoran Government and the FMLN. The committee provisions were carefully crafted to encourage both parties—the Salvadoran Government and the FMLN—to participate in serious negotiations.

Mr. Chairman, H.R. 4636, the supplemental authorization bill for Panama and Nicaragua before us today contains an authorization for $30 million for Contra demobilization. The demobilization funds are to be channelled through the UN/OAS's International Support and Verification Commission—known as CIAV—and they are to be available only provided that the Contras abide by their agreement to disarm.

I rise today to bring to my colleagues' attention my concern about the recent action by the Contras, announced last Friday, to suspend indefinitely their agreement to disarm. To date, only approximately 1,000 of the estimated 16,0000 Contras have turned in their weapons to the U.N. forces. The elite Contra forces are being maintained in reserve. Reports on May 21, in fact, indicated that 1,500 Contras had returned to the Honduran side of the border where they had maintained their base camps. Through their actions, the Contras are now presenting a challenge to the authority of the Chamorro Government.

Many individuals here in Congress were able to support this demobilization aid to the Contras based on the fact that it would be solely for Contra demobilization, repatriation and resettlement. We must emphasize now that that is indeed the purpose of these funds. Any aid for Contra demobilization must go solely for Contra demobilization. This aid is not to maintain a standing army.

I am very concerned, Mr. Chairman, that the Contras have backed out of their agreement to demobilize. No funds should be released to the Contras if they are not fulfilling the conditions stipulated by Congress.

I wish to return to the Moakley-Murtha amendment which further strengthens the incentives and disincentives for participation in the peace process in El Salvador. If the FMLN causes the negotiations to collapse, launches another offensive, continues to receive substantial shipments of outside arms, assassinates or abducts civilian noncombatants or engages in acts of violence directed at civilian targets, President Bush could reinstate the military aid.

If the Salvadoran Government causes the negotiations to collapse, if there is less than a full investigation and prosecution of the individuals responsible for the assassinations of the six Jesuit priests, if the Salvadoran

military stages a coup, or if the Salvadoran military is assassinating or abducting civilian noncombatants or engaging in acts of violence directed at civilian targets, then the military assistance could be cut off entirely.

These are sensible conditions designed to keep both the government and the rebels at the negotiating table. The cut in aid is designed to send a serious message to those in El Salvador who choose guns over talks, both military and rebel.

The Salvadoran military is balking at participating in the negotiations between the FMLN and the Cristiani government. Without their participation, any real change will be difficult. Cutting military aid by 50 percent sends a signal that the United States will no longer condone their brutal actions. As long as the military continues to get full U.S. funding, there is no incentive for the military to pursue peace.

The tragedy of El Salvador gets worse. Last November, as I watched the reports of the escalation of the war in this tiny country, I saw many pictures of small children wounded as they were caught in the crossfire of an ideological battle which they are too young to understand.

There cannot and will not be a military victory in the Salvadoran war, by either side. Even American military advisers have acknowledged that a military victory is impossible. Without the possibility of a military victory, there is only one way to stop the war—negotiations. Today, we have an opportunity to promote the negotiations and at the same time, support the work of the Central American Presidents in their efforts to promote regional peace.

Over the course of the past 10 years, the United States has spent $4 billion in El Salvador and the situation there has progressively worsened. Human rights violations are tragically increasing and no one has yet to be successfully convicted for human rights abuses.

The murder of the six Jesuit priests galvanized the people of the United States. The assassination of the Jesuits has highlighted the serious problems with the Salvadoran justice system. The purported investigation and prosecution of those responsible for these heinous crimes has become a farce, with essential witnesses transferred out of the country on study programs, critical evidence such as journals, diaries and logs disappearing and the corrupt Salvadoran military structure pulling out all the stops to protect its own. President Cristiani has indicated that Colonel. Benavides may simply walk away from the murders.

A number of my colleagues who had prevously supported military assistance to El Salvador have now indicated their reluctance to support further aid. They, too, are frustrated with the lack of progress in resolving the crisis in El Salvador. The growing discontent in the United States Congress about the status quo in El Salvador is helping to increase the pressure for a negotiated political settlement to the war in Salvador. Today provides us with an opportunity to act positively to change United States policy toward El Salvador.

The escalation in the civil war in El Salvador, the tragic increase in death and destruction there, the serious rise in death squad activity and the recent assassinations of six Jesuit priests, the backbone of El Salvador's intellectual community, all cry out for action by the United States to change our policy.

While I support the committee provisions and the Moakley-Murtha amendment, I am disappointed that we are not voting today for a total cutoff of military aid to El Salvador. The sheer fact of the matter about the situation in El Salvador is that it is American taxpayers' dollars which are paying for the war there. We send $1.5 million a day, not a week, not a month, but $1.5 million a day to support the regime in El Salvador. Without our tremendous amount of foreign aid to this tiny country, the war could not go on.

Military assistance will only prolong the suffering. Negotiations are the only way to stop it. For the sake of the children of this war-torn country, we must renew our efforts to promote a negotiated political settlement to the Salvadoran civil war.

If we do not act to stop the war, if we do not act to send a message to El Salvador that we will not support repression there, we will be responsible for the deaths of many people whose sole goal in life has been to improve life for all Salvadorans. As we work to promote democracy in Central America, we should make sure that El Salvador is not left out of our efforts.

Mr. Chairman, a number of people in the San Francisco Bay area are actively involved in promoting peace in El Salvador. They support sister cities programs and visit Salvador on pastoral, humanitarian and religious delegations. Uniformly, they return from this tiny, war-torn country with one message, a message they hear repeatedly from their Salvadoran hosts, please cut the aid. Today, let us heed those voices and add ours to the groundswell for peace.

I urge my colleagues to support the Moakley-Murtha amendment, which strengthens the committee provisions on El Salvador.

Mr. BROWN of California. Mr. Chairman, I rise today in strong support of the Moakley-Murtha amendment to H.R. 4636. I want to address my comments to my colleagues who have not yet decided how to vote on the El Salvador aid restructuring proposals.

Some of my colleagues may be under the impression that the Moakley-Murtha amendment cuts military aid to only the Salvadoran Government and puts no pressure on the FMLN rebels.

In fact, Mr. Chairman, the beauty of this legislation is that even though the United States can only directly control the military aid that is given to the Salvadoran Government, Moakley-Murtha puts conditions on the behavior of the FMLN which, in effect, also cut its military aid. If the President of the United States certifies that the FMLN is continuing to receive significant shipments of outside military equipment, the Moakley-Murtha amendment calls for the resumption of full military aid to the Salvadoran Government. In addition, if the President certifies that the FMLN is undertaking offensive operations that threaten the survival of the Salvadoran Government, then full military aid to the Government resumes. Through this legislation, both sides are put in a straitjacket in terms of military aid to help ensure that both camps back away from a military solution to the conflict and negotiate in good faith for a diplomatic solution.

Since negotiations are just beginning again in El Salvador, some of my colleagues might be wondering whether this is the right time to be conditioning aid in a way that some have interpreted as weakening the position of the Salvadoran Government?

In fact, Mr. Chairman, the timing is perfect for this legislation because it will weaken the hands of those who are unwilling to seriously negotiate and respect human rights, while it strengthens the hands of those on both sides who want successful negotiations. With this legislation, Salvadoran President Cristiani can now turn to the extremists in the military and the far right-wing and warn them of the consequences of obstructing negotiating in terms they can appreciate. President Cristiani may have to publicly say that he opposes this legislation, but logically, if he is sincere about wanting peace and sincere about his willingness to make reasonable compromises, this legislation gives him the leverage he needs against the extremists in his party and the Salvadoran military. Likewise, on the FMLN side, this legislation increases the power of those who want to make compromises for peace, while it weakens the influence of those who want to pursue a military solution to the civil war.

Mr. Chairman, it is finally time for the Congress to answer the question: Are we going to start promoting peace and negotiations in El Salvador, as the Moakley-Murtha provisions will have us do, or are we going to continue helping El Salvador's extremists pursue a bloody, military approach to the civil conflict in that country? I urge my colleagues to support the Moakley-Murtha amendment.

Mr. FEIGHAN. Mr. Chairman, when we look book back at the situation in El Salvador, we look at a decade that was ushered in with the murder of four American churchwomen—two of them from my home State of Ohio. It is a decade of war that ended with the brutal killing of six Jesuit priests, their cook, and her daughter. In both cases, the Salvadoran mili-

tary, financed and trained with U.S. tax dollars, were implicated. Those events are bloody bookends to a decade in which 70,000 Salvadorans have been killed.

Today, we have the opportunity to change course. The Moakley-Murtha amendment gives us an opportunity to peg our policy directly to the process of peace negotiations. We have the opportunity to end the carte blanche approach to military aid to El Salvador and replace it with a policy that puts the United States foursquare behind the pursuit of a negotiated settlement to the war.

The Moakley-Murtha amendment sends a message to the FMLN that they will now be held accountable for their actions—for attacks against civilians, for car bombings, and political assassinations. At the same time, it sends a message to the Salvadoran high command that they must do what they have never done before. They must police their own ranks for those members who kill priests, bomb civilian targets, or threaten to topple the elected government. The Jesuits case is a litmus test of their willingness to take on this commitment.

Let's look at the Jesuits' case. According to the Moakley task force's interim report, the case is at a virtual standstill. Questions aimed at tracing the crime back to its intellectual authors are, according to the report unanswered and apparently, unasked. But beyond these observations, the task force interim report describes a policy failure in El Salvador. Our prolonged effort to establish respect for human rights has not worked. In the words of the Moakley report, "The Salvadoran justice system remains essentially an oxymoron—neither systematic, nor just."

Perhaps the most disturbing fact revealed in the Moakley report is that just 2 days before the crime, nearly all those now under arrest for the murder of the Jesuits, sat in a U.S.-taught training course on infantry patrol techniques and weapons training.

The Moakley task force reported to this House that its members were "* * * convinced that the military's contribution to the problems of human rights and a paralyzed judicial system are not caused by a few renegade officers; they reside at the heart of the armed forces as an institution."

We must acknowledge that this same military institution has been armed, financed and trained with U.S. tax dollars. The Jesuits' case cries out for a change in our policy. The Moakley-Murtha amendment puts that policy in place. I urge my colleagues to support it.

Mr. RAHALL. Mr. Chairman, I rise in strong opposition to H.R. 4636, a bill to authorize yet another billion dollars to foreign countries.

Mr. Chairman, I do not question the fact that there are many nations around the world which require economic development assistance. Clearly this is true. However, I do question if we have the resources to provide such assistance when there is such need in our own country.

Our deficit stands at $152.1 billion, our gross Federal debt at $2.8 trillion. Real earnings between 1973 and 1986 have declined 17 percent. Our merchandise trade deficit has risen from $19.3 billion to $118.5 billion since 1980.

Our method of addressing our serious budget problems has been tragically ironic. While we have freely provided economic development assistance to foreign countries, we have simultaneously cut every small program that could provide needed economic development assistance for our own people. EDA, ARC, UDAG, CDBG, and the EPA construction grants program for water and sewers are just a few of the domestic economic development programs which have fallen victim to this budget cutting. What is worse is that this method has been predictably ineffective.

Even more ironic is that while we are poised to pass a bill authorizing yet another billion dollars for foreign countries, we are struggling in a budget summit to make $60 billion worth of cuts, and find a way to exclude another $60 billion, used to bailout mismanaged savings and loans, from our deficit calculation. We must do so, and will probably have to change our deficit reduction laws to allow for more debt than previously anticipated, because we do not have the funds to pay off this massive debt and because our economy cannot absorb more that $60 billion worth of cuts.

The answer is not more taxes. The answer is reorder our spending priorities. Our first step should be for us to realize that we must address our problems at home before we can again assist other nations. The answer is to defeat this bill and use the billion dollars it authorizes to solve our problems.

Mr. GEPHARDT. Mr. Chairman, over the past year, in region after region throughout the world, the forces of democracy, moderation and reason are taking over. From Eastern Europe to southern Africa, from Nicaragua to Mongolia, people are coming together to solve problems that were thought intractable just a short time ago.

Today, we have an historic opportunity to help this movement toward global reconciliation spread to a nation on our own continent that has known no peace for more than a decade, El Salvador.

In the past few months, I have had the honor to meet with a number of religious leaders from El Salvador, including those who have been targets of persecution, death threats, and assassination attempts.

These courageous men and women have documented the continuing violence and repression in El Salvador against labor leaders, religious figure, human rights advocates, and ordinary citizens. To a person, they say that United States military aid to El Salvador is only serving to increase the violence there by encouraging the Government to resist a negotiated settlement.

They frequently raise the fundamental, unanswerable question: What have we gained as the result of the $4 billion of aid we have provided to El Salvador over the past decade?

More and more Americans are asking themselves the same question. They now accept that our policy toward El Salvador over the past decade has failed—failed to bring about fundamental reform of the military and judiciary, failed to rein in the death squads, and failed to bring peace to a war now entering its third decade.

A bipartisan consensus now calls for our Government to change its course.

The committee bill, enhanced by the Moakley-Murtha substitute, sends the clear message that a military solution to the problems of El Salvador is not possible, that it is time to bury the hatred along with the dead, and that a negotiated settlement based on fundamental reform and human rights is the only guarantor of lasting peace in this afflicted country.

The bill immediately transfers half our military aid to attack the real enemies in El Salvador, namely, illiteracy, malnutrition, and disease. It provides incentives for the Government and the opposition to negotiate under U.N. auspices. And it enhances the role of civilian authorities vis-a-vis a runaway military command.

Nothing less than this will suffice.

Mr. Broomfield's substitute is well-intentioned, but it does not go nearly far enough. It delays action for 5 months; it requires minimal conditions for a full restoration of military aid; it provides no incentives to the opposition FMLN to participate in negotiations. As such, the Broomfield substitute is a prescription for a status quo that none of us should accept.

Last session, when we voted to cut off aid to the Contras, we were warned by the last administration that this result would condemn Nicaragua to an eternity of totalitarian rule. History, and the election of Violeta Chamorro, proved those critics wrong then. I believe the opponents of the Moakley-Murtha amendment will be proved just as wrong.

I urge my colleagues to defeat the Broomfield substitute and support the committee bill enhanced by the Moakley-Murtha substitute.

Mr. DORGAN of North Dakota. Mr. Chairman, there is no question that there is an urgent need to get assistance to the new democracies of Panama and Nicaragua and to the provisional Government in Haiti which is trying to guide that country through democratic elections.

There is no question that the United States, which has long supported the Government and military in El Salvador, has an obligation to assist in the search for a negotiated settlement of the civil war which is widely acknowledged to be unwinnable.

The issue is what kinds of aid should we provide and under what conditions.

When the Bush administration sent us its proposals for fiscal year 1990 supplemental aid to Panama and Nicaragua, I made it clear as Chairman of the International Task Force on Hunger, that the Panama proposals in particular, constituted trickle down aid plan. We would have been handing over a blank check to the Panamanian Government, and providing nothing to meet the critical nutritional and health needs of children; nothing to rebuild Panama's primary health care system despite their serious deterioration caused by Noriega's misrule and United States sanctions.

The administration's proposals, if enacted, would have sent the new democratic Government of Panama a message of indifference to basic human needs. A Third World democracy which believes that restoring the health of the banking industry is action sufficient to address the nutritional needs of its desperately poor will not long survive as a democracy. That is why I voted against the supplemental appropriations bill, H.R. 4404.

The measure before us today is an improvement. I commend the Foreign Affairs Committee for its authorization of $50 million of the

Panama aid to meet the priority needs of its poorest people. I share the committee's concern about the deterioration of primary health care services in both Nicaragua and Panama—a decline which has been realistically documented by the Pan American Health Organization [PAHO]. To cite one distressing disease statistic compiled by PAHO, because of the suspension of mosquito control activities during the Nicaraguan war, malaria increased 100 percent from 1985 to 1988.

In the political disorder of the past several years, children have borne a disproportionate share of the burden—child malnutrition has worsened. I expect that the administration will faithfully follow the committee's injunction to channel increased levels of development assistance to child survival and health care programs to address the critical health care needs of children in both countries.

I want to raise a question about changes to the current Central American Survival Assistance Act, Public Law 101-215, which I authored last year. That law ensured that emergency medical aid to the civilian victims of Nicaragua's civil war would continue. The change in section 102(g) removes the word "noncombatant" thus making assistance available to any victim of the strife. This would be consistent with the reconciliation process being promoted by the democratically elected Chomorro government, assuming that the Contras will be demobilized. Only then, when they are former combatants, should they be considered for this aid, for only then could its use advance the humanitarian goals of Public Law 101-215. Is this interpretation of the intent of this change correct?

Both the Committee on Appropriation's Foreign Operations Subcommittee and the Foreign Affairs Committee are to be commended for correcting the failure of the Bush administration to request added funds for overseas refugees. In my role on the Hunger Committee, I heard testimony earlier this year that the State Department's refugee assistance budget on a per capita basis, had declined from $20 per refugee in 1985 to about $12 per refugee in 1989. We were told that up to 225,000 children, ages 1 to 5, who are in United Nations High Commissioner for Refugees care are suffering acute malnutrition. I support the increase in the Emergency Migration and Refugee Fund on the understanding that overseas refugees, who are from the world's poorest countries and who have a thin margin for survival, will be prime beneficiaries of increased spending from this fund.

The restoration of $30 million in aid to southern Africa to compensate for funds previously taken from Africa accounts is warranted. It is satisfying to see these funds being used to aid democratic development in that region. It seems to me that too often Americans have concentrated their enthusiasm for the surge of democracy on countries which previously had endured Communist rule. There also has been a condescending, albeit unspoken, view that some regions, including Africa, were different and not ready for multiparty democracy. Under this rationale we looked the other way while one party dictatorships abused human rights and wasted or stole our assistance dollars. This must stop. Our concern for human rights and democracy must be universal.

I also strongly support the authorization for up to $20 million in assistance to Haiti to help its provisional government steer the country through free and fair elections into democracy. Once Haiti has a government worthy of its people, one which is really striving to alleviate the grinding poverty of that land, I hope this body will remember its generosity toward Panama and Nicaragua, and provide adequate aid to our hemisphere's poorest country.

Aid to El Salvador was not addressed in the appropriations bill. The authorization measure, both as reported by the Committee on Foreign Affairs and in the Moakley-Murtha substitute, have my support.

Human rights abuses have been committed both by the Salvadoran military and by the rebel FMLN. All such violations of human rights are reprehensible. But our military aid to the Government imposes on us a particular moral obligation to ensure that its abuses stop. How can we continue to fully fund the Salvadoran military after its soldiers murder six Jesuit priests? How can we continue to provide money after we are told by Salvadoran authorities that key evidence against the highest ranking officer arrested for involvement in the atrocity has been lost?

Too often our administration, some of us in Congress, and foreign governments, act as if our assistance were an entitlement which should continue regardless of their behavior and changes in the international political environment.

That is the case with El Salvador.

The dramatic improvement of United States-Soviet relations and the onset of democracy in Panama and Nicaragua should reduce concerns in this country that a red tide is going to roll over Central America. This has been the justification for sending over $4 billion of our taxpayers money to the Salvadoran Government and military over the past 10 years.

Authorizing aid to the Salvadoran military under the title "Assistance to Emerging Democracies" is a perversion of the meaning of those words. I recognize, however, that the intent of the legislation as reported by the Foreign Affairs Committee, is not to provide additional aid, but to set tougher aid conditions. Frankly, I am skeptical of the efficacy of withholding only 50 percent of our military aid to encourage successful prosecution of those responsible for murdering the priests and encouraging negotiations to end the war. But I will support these provisions because they improve our current policy.

I would have preferred withholding 100 percent of our aid to the Salvadoran military. But, peace negotiations now are underway, in part because the FMLN recognizes that the changes in the international political situation make pursuit of its military option much less attractive. A total U.S. military aid cutoff at this delicate juncture some argue, could give the FMLN renewed confidence that it could gain a military victory and thus torpedo peace hopes.

I am voting against the Broomfield amendment, because although it appears to place conditions on U.S. military aid, these conditions would be more apparent than real. No money would be withheld now: Thus no clear human rights or peace message would be sent to the Salvadoran Government and military. Further, in the future, President Bush alone would decide whether any funds would be withheld if, for example, the Salvadoran investigation into the murders of the priests continued to be a farce.

Finally, I note the bill's provision which authorizes the President to transfer any unused military aid, of both fiscal year 1990 and fiscal year 1991, to development aid to serve the basic needs of the Salvadoran population. I cannot predict whether this laudable provision will in fact be used. But it sets the direction in which we should be heading. If this provision is used, I recommend that expenditures comport with the standards in the Central American Survival Assistance Act. Aid for basic human needs, "si"; aid to the military, "no."

In conclusion, I support the improvements in this bill to the previously passed supplemental.

Mr. JONES of North Carolina. Mr. Chairman, I want to thank Chairman FASCELL for inserting into the committee report on H.R. 4636 our concerns for training more Panamanian nationals at the U.S. Merchant Marine Academy and the U.S. Coast Guard Academy.

With the Government of Panama taking over complete control of the Panama Canal in the year 2000, it is in the interest of both the United States and Panama to train more Panamanians to develop the technical and managerial skills needed to operate the Panama Canal. An education at Kings Point or the Coast Guard Academy would well serve this purpose.

The Committee on Merchant Marine and Fisheries is amending the appropriate laws to permit more Panamanians into these two academies. By allowing the Government of Panama to use foreign aid funds for this purpose, we help both countries, as well as the individuals who receive the training.

I want to thank Chairman FASCELL again for making clear that it is a permissible and desirable use of funds in this aid package to cover the costs of Panamanian students at the Merchant Marine Academy and the Coast Guard Academy. I encourage our Government and the Republic of Panama to make immediate and aggressive use of this authority.

Mr. HALL of Ohio. I rise in strong support of H.R. 4636. I would like to commend the chairman of the Committee on Foreign Affairs, Mr. FASCELL, for his excellent work, and in particular for his work for poor people in Panama and Nicaragua and refugees overseas.

I am aware of the immediate needs of tens of thousands of children in Panama and Nicaragua, and am pleased that this bill earmarks money to meet priority needs of the poorest people of Panama. In addition, the committee report states the committee's support for increased levels of development assistance through the child survival and health program to address the critical health care needs of children in both countries. I am confident that the Bush administration will not neglect the children of these countries as we work to help build strong, equitable, democratic societies in these two countries.

I salute the committee for its efforts to help us meet the crisis in funding for refugees overseas. The Select Committee on Hunger had held a hearing on this issue, and I strongly endorse the committee's report language

which describes the critical budget shortfalls faced by the United Nations High Commissioner for Refugees and the International Committee of the Red Cross. By increasing the authorized ceiling of the Emergency Refugee and Migration Assistance Fund, the committee has demonstrated its concern for the more than 15 million refugees around the world, many of whom flee their homes only to face continued hardships in refugee camps.

Mr. Chairman, I believe the situation of these refugees and displaced people is intolerable. In addition to the positive measures contained in H.R. 4636, it is clear that the Congress and the administration must continue to devote greater resources to assist refugees overseas.

I urge all Members to support this legislation.

Mr. WOLPE, Mr. Chairman, I rise in support of the legislation and want to commend my friend and chairman, Mr. FASCELL, for his diligence in crafting this bill.

Mr. Chairman, there is one part of this legislation which bears special mention and that is the language limiting military assistance to El Salvador. For the first time in a decade we have a unique opportunity to help advance the cause of peace in a country which has been torn by a bloody civil war. The graphic horrors of this war have been most notably symbolized by the brutal slaying of six Jesuit priests last November. At that time, last winter, Congress missed an opportunity to curtail a portion of the military aid to El Salvador when an amendment to the foreign aid bill was narrowly rejected by the House. Today, we must not make a similar mistake.

Frankly, I wish that this bill more closely followed the initiative proposed by my friend, Mr. DELLUMS, which would have terminated all aid to the Salvadoran Government, pending the resolution of the case of the six murdered Jesuits. In my view it is terribly wrong that American tax dollars are continuing to fund a government which is:

Incapable of controlling its own military;

Incapable of controlling the right-wing death squads that inflict terror on the Salvadoran people; and

Whose judicial system is so corrupt that it has yet to hold accountable a single military officer for crimes committed against innocent civilians.

Our support for the Salvadoran Government this past decade has not brought about the changes for which we had all hoped. We have not advanced our country's national interests or improved the lives of a majority of the Salvadoran people. Instead we have helped to perpetuate the strife and poverty which plagues this country.

Nonetheless, I recognize that significant steps have been taken within the past 2 months under the auspices of the United Nations to negotiate a settlement between the FMLN and the Salvadoran Government. We must all be encouraged by these talks. And that is why the language we have in this bill is an important first step.

The House bill and the Murtha-Moakley substitute, provide both the FMLN and the Salvadoran Government with incentives to remain at the bargaining table—which is exactly where they belong. The bill immediately withholds 50 percent of the military aid to El Salvador for fiscal year 1990. If the Salvadoran Government has not conducted a thorough investigation into the murders of the Jesuit priests or if it does not participate in good faith negotiations in the peace talks, all military aid would be terminated.

Similarly, if the FMLN continues to acquire significant amounts of arms from abroad or if it does not negotiate in good faith, then aid to the Salvadoran military can be restored.

I happen to be particularly supportive of the amendments which my colleagues, Mr. MURTHA and Mr. MOAKLEY, are offering that would add attacks on civilians by the FMLN or the Salvadoran armed forces as an additional condition for restoring or terminating military assistance. Also, the amendment requiring the Salvadoran president to approve of any military assistance will help strengthen civilian control of the armed forces. These amendments are sensible and will help improve the package we have before us today.

Finally, Mr. Chairman, I want to point out that I am painfully aware that there has been tremendous insensitivity to human suffering by both sides. Like the Salvadoran Army, the FMLN has displayed a callousness which has contributed to the enormous misery of the Salvadoran people. But the Salvadoran army is still armed and trained by our taxpayer dollars and as long as the Salvadoran Government is complicit in the terrorizing of civilians, we cannot reward that government with unconditional aid. We have the opportunity to send the strongest signal yet to the Government of El Salvador and the rebels that the U.S. Government wants to end the decade of bloodshed and terror in this Central American nation. I urge my colleagues' support for this bill, and the Moakley-Murtha substitute.

Ms. SCHNEIDER. Mr. Chairman, I urge my colleagues to support the Foreign Affairs Committee and vote for a real reduction in United States aid to El Salvador. Meaningful action to end the bloodshed in that country is long overdue.

Ten years ago, shortly before his assassination, Archbishop Romero urged the United States to cut off our military assistance. We did not follow his advice and for a decade, the United States has undertaken support of various Salvadoran governments in an attempt to quell the FMLN rebels. A decade of fighting and $4 billion in aid to the government and military forces, however, has brought neither peace nor prosperity to the people of El Salvador. Rather, it has contributed to warfare that has yielded 70,000 deaths and widespread suffering and pain.

I have been a long-time opponent of military support and have in the past supported restrictions on our aid. Today, we have a real opportunity. The Moakley-Murtha substitute not only restricts 50 percent of military aid, but also gives President Bush the authority to cut off or restore aid if either the Salvadoran Government or the FMLN do not negotiate in good faith. Both sides are guilty of human rights violations, both sides have promoted war and this legislation puts both sides on notice. Furthermore, the Moakley-Murtha substitute will actually strengthen the hand of President Cristiani in enhancing civilian control over the Salvadoran military by requiring that he approve the disbursement of all military aid.

The Moakley-Murtha substitute also puts action behind our condemnation of the killing of six Jesuit priests and the numerous other crimes of the preceding decade. Our previous attempts to leverage human rights concessions have clearly failed: not one Salvadoran military officer has been convicted of a human rights crime.

I also urge my colleagues not to be confused by arguments that the timing of our action is bad. On the contrary, our timing could not be better to empower those who seek peace and reconciliation in El Salvador. The Moakley-Murtha substitute will contribute to the peace process by giving both the FMLN and the Salvadoran Government a direct incentive to continue the initiative in Caracas, Venezuela.

We have seen the result of a bipartisan effort to end the Contra War in Nicaragua. Let us now vote to help those who have been hurt most by the bloodshed of the past decade and will benefit most from national reconciliation: the people of war-torn El Salvador.

I urge my colleagues to support the Moakley-Murtha substitute and oppose any amendments to weaken the committee language.

Mr. PEASE. Mr. Chairman, I rise reluctantly in opposition to passage of H.R. 4636, supplemental assistance for emerging democracies. I do so because this bill, like the corresponding supplemental appropriations bill, H.R. 4404, that we passed a few weeks ago reflects ad hoc decisionmaking in U.S. foreign assistance programs.

Last week, the Washington Post carried a three front-page articles about divergent philosophies within the Congress and the Bush administration regarding how to overhaul and update U.S. foreign aid laws and priorities. But one point of consensus emerged loud and clear—it is time to update a foreign aid program that is still administered under a law enacted in 1961 and largely unchanged since the mid 1970's.

President Bush has chastised the Congress for failing to provide him with more flexibility in the foreign aid program through which he can more effectively respond to dramatic geopolitical changes such as we have recently seen in Eastern Europe, the Soviet Union, and Latin America. I hope the Congress will take up his challenge and engage him in a thoughtful and comprehensive rewriting of U.S. foreign aid.

Until such a review is completed and the White House is willing to actively support legislation that fundamentally redirects U.S. foreign aid programs, I will continue to oppose the foreign aid requests President Bush sends to the Congress along with measures like this bill which perpetuate a very confused foreign assistance priorities. Specifically, this bill does little to speak to the following adverse trends in foreign aid: First, the concentrated maldistribution of aid to just five countries; second, the imbalance of spending priorities whereby too much emphasis is placed upon military aid and economic support funds, while far too little aid is devoted to humanitarian and development assistance; and third, increased spending without re-examining whether better

targeting of current levels of foreign aid spending might yield better results relative to more clearly defined, obtainable foreign aid purposes.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of H.R. 4636 is as follows:

H.R. 4636

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Supplemental Assistance for Emerging Democracies Act of 1990".

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

Section 1. Short title and table of contents.
TITLE I—SUPPLEMENTAL ASSISTANCE FOR FISCAL YEAR 1990
Sec. 101. Assistance for Panama.
Sec. 102. Assistance for Nicaragua.
Sec. 103. Administrative uses of funds for Panama and Nicaragua.
Sec. 104. Assistance for Haiti.
Sec. 105. Assistance for the Caribbean.
Sec. 106. Migration and refugee assistance.
Sec. 107. Assistance for sub-Saharan Africa.
Sec. 108. Assistance to encourage negotiations leading to a peaceful transition to democracy in South Africa.
Sec. 109. Housing investment guarantee program for new immigrants to Israel.
TITLE II—OTHER AUTHORIZATIONS
Sec. 201. Claude and Mildred Pepper Scholarship Program.
Sec. 202. Certain international affairs activities.
Sec. 203. Gorgas Memorial Institute.
Sec. 204. Extension of au pair programs.
Sec. 205. Technical and conforming amendments to the Department of State Appropriations Act, 1990, and the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991.
TITLE III—DEVELOPMENT FUND FOR AFRICA
Sec. 301. Short title.
Sec. 302. Development Fund for Africa.
TITLE IV—CARIBBEAN REGIONAL DEVELOPMENT
Sec. 401. United States policies.
Sec. 402. Priority areas for assistance.
Sec. 403. Protection of worker rights.
Sec. 404. Protection of public health.
Sec. 405. Support for women's role in development.
Sec. 406. Consultation, monitoring, evaluation, and reporting.
Sec. 407. Definition of Caribbean.
TITLE V—EL SALVADOR
Sec. 501. Assistance for El Salvador.

TITLE I—SUPPLEMENTAL ASSISTANCE FOR FISCAL YEAR 1990

SEC. 101. ASSISTANCE FOR PANAMA.

(a) ECONOMIC ASSISTANCE.—In order to support the efforts of Panama to restructure and restore its economy, restore relations with international financial institutions, address specific development problems, and strengthen democratic institutions, there are authorized to be appropriated $470,000,000 as supplemental appropriations for fiscal year 1990 for assistance in accordance with this section under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(b) OBJECTIVES OF ASSISTANCE.—The assistance authorized by this section shall be used to encourage and assist the Government of Panama in taking the necessary steps to restructure government policy and administration in order to allow the proper functioning of a market economy and political democracy. Among these steps should be the formulation and execution of sound economic policies and improved public sector management, with special attention to such areas as fiscal policy, the financial sector, budget planning and implementation, privatization of public enterprise, trade policy, and regulatory policy.

(c) ALLOCATIONS OF ASSISTANCE.—Except as provided in subsection (e), the funds authorized to be appropriated by subsection (a) shall be allocated and used as follows:

(1) DEVELOPMENT ASSISTANCE.—$50,000,000 shall be for assistance, consistent with the authorities and policies of chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance)—

(A) to meet priority needs of the poorest people of Panama, including assistance for rural development, health, family planning, and education; and

(B) to address immediate environmental needs and other environmental problems, including through means such as debt-for-nature swaps.

Assistance under this paragraph may be provided directly or through regional or international institutions.

(2) PRIVATE SECTOR REVITALIZATION.—

(A) IN GENERAL.—$150,000,000 shall be for assistance to revitalize the private sector in Panama. Such assistance shall include the following:

(i) BUSINESS INVESTMENT AND INVENTORY.—Assistance to help business finance a resumption of investment expenditures and restock inventories. Priority should be given to those businesses that suffered from looting in late December 1989 and for which a rapid resumption of economic activity would generate substantial employment.

(ii) EXPORT PROMOTION.—Assistance for export promotion activities.

(B) TRADE AND DEVELOPMENT PROGRAM.—Of the funds allocated to carry out this paragraph, $3,000,000 shall be transferred to the Trade and Development Program for use under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421), except that this subparagraph applies only to such extent as is provided in advance in an appropriations Act.

(C) CREDIT ASSISTANCE.—Except for the assistance described in subparagraphs (A)(ii) and (B), assistance under this paragraph shall be provided through the commercial banking system and other financial intermediaries.

(3) PUBLIC INVESTMENT PROGRAM.—$110,000,000 shall be for assistance to revitalize public investment in Panama. Such assistance shall be provided as budget support to the Government of Panama to finance construction and other activities in such sectors as transportation, education, agricultural, and health. This assistance shall be administered by the Government of Panama and by nongovernmental organizations, with implementation to be carried out for the most part by private contractors.

(4) PAYMENT OF ARREARAGES TO INTERNATIONAL FINANCIAL INSTITUTIONS.—$130,000,000 shall be for assistance to assist Panama in paying its arrearages to international financial institutions. Such assistance shall be provided as part of a package of assistance for such purpose that includes the participation of the Government of Panama and other donor nations and multilateral institutions. This effort should be accompanied by a rescheduling of official bilateral and commercial debt.

(5) STRENGTHENING PUBLIC ADMINISTRATION.—Except as provided in subsection (d)(4), $30,000,000 shall be for—

(A) assistance to strengthen the administrative and management capabilities of the Government of Panama, including the National Banking Commission;

(B) assistance under section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c) to strengthen the administration of justice in Panama, including the Office of the Attorney General; and

(C) notwithstanding section 660 of that Act (22 U.S.C. 2420; relating to the prohibition on assistance for law enforcement forces)—

(i) training for the Public Forces and other civilian law enforcement forces of Panama in human rights, civil law, and investigative and civilian law enforcement techniques,

(ii) assistance in developing a civilian police training academy in Panama, and

(iii) assistance to finance the procurement for civilian law enforcement forces in Panama of equipment that are appropriate for standard civilian law enforcement requirements.

(d) LAW ENFORCEMENT ASSISTANCE.—

(1) PROHIBITION ON LETHAL EQUIPMENT.—Only equipment that is nonlethal may be provided under subsection (c)(5).

(2) LIMITATION ON EQUIPMENT.—Not more than $5,000,000 of the funds used under subsection (c)(5) may be used for the procurement of equipment for law enforcement forces of Panama.

(3) DEFINITION OF EQUIPMENT.—For purposes of this subsection and subsection (c)(5), the term "equipment" has the same meaning as is given the term "commodities" by section 644(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(c)).

(4) ASSISTANCE FOR OTHER COUNTRIES.—Up to $1,200,000 of the amount allocated pursuant to subsection (c)(5) may be used under section 534(b)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346(b)(3)) for countries in Latin America and the Caribbean other than Panama.

(5) LIMITATIONS NOT APPLICABLE.—The second sentence of section 534(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c(e)) and the second sentence of section 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), shall not apply with respect to assistance provided under subsection (c)(5), including assistance under paragraph (4) of this subsection.

(e) CHANGES IN ALLOCATIONS.—

(1) REDUCTION OF ALLOCATIONS IF APPROPRIATIONS ARE LESS THAN SUM OF SPECIFIED ALLOCATION AMOUNTS.—If the aggregate amount appropriated pursuant to the authorization of appropriations provided by this section is less than the amount authorized, then the amount allocated pursuant to each paragraph of subsection (c) shall be the amount which bears the same ratio to the amount specified in that paragraph as

the amount appropriated bears to the amount authorized.

(2) REALLOCATIONS.—Funds allocated pursuant to any paragraph of subsection (c) may be reallocated for use under any other such paragraph if, at least 15 days before such reallocation, the President notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(f) MONEY LAUNDERING.—

(1) CURRENT COOPERATION BY ENDARA GOVERNMENT.—The Congress—

(A) again commends the Endara government for its cooperation and assistance in freezing Panamanian bank accounts believed to be implicated in narcotics-related and other illegal financial transactions; and

(B) notes the willingness of the Endara government to enter into negotiations with the United States on information sharing regarding narcotics-related financial transactions.

(2) APPLICABILITY OF KERRY AMENDMENT TO PANAMA.—Panama shall be considered to be a country described in the second sentence of section 4702(c)(1) of the International Narcotics Control Act of 1988 (31 U.S.C. 5311 note; relating to "highest priority" countries for purposes of negotiations concerning laundering of United States currency).

(3) BANK RECORD SHARING AGREEMENT.—Not more than half of the funds appropriated pursuant to the authorization of appropriations provided in this section may be expended until—

(A) the Secretary of the Treasury reports to the Congress that the Government of the United States and the Government of Panama have reached an agreement for exchanging adequate records (as defined in section 4702(f)(2) of the International Narcotics Control Act of 1988) on international currency transactions in connection with narcotics investigations and proceedings; or

(B) if a report has not been submitted under subparagraph (A) as of the time the Secretary of the Treasury submits the final report required by section 4702(d) of that Act, the Secretary reports to the Congress that Panama is negotiating in good faith to reach such an agreement.

(4) 1991 NARCOTICS CERTIFICATION.—

(A) SEPARATE CERTIFICATIONS FOR BILATERAL AND MULTILATERAL ASSISTANCE.—In the case of the certification requirements of section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)), the President shall submit separate certifications with respect to Panama for fiscal year 1991 for purposes of paragraphs (1)(A) and (1)(B) of that section.

(B) REQUIREMENT FOR BILATERAL ASSISTANCE CERTIFICATION.—The President may make a certification with respect to Panama for fiscal year 1991 for purposes of paragraph (1)(A) of that section under paragraph (2)(A)(i) of that section (relating to countries which are fully cooperating with respect to illicit drug production, trafficking, and money laundering) only if an agreement has been signed by the Government of the United States and the Government of Panama that provides for—

(i) mutual access to records of financial transactions for purposes of drug-related law enforcement investigations, and

(ii) efficient mechanisms for each government to obtain from the other country, in judicially admissible form, bank records for use in drug-related proceedings.

(5) EXPLANATORY NOTE REGARDING STATUTORY REFERENCE.—The International Narcotics Control Act of 1988 is title IV of the Anti-Drug Abuse Act of 1988.

(g) CONGRESSIONAL NOTIFICATIONS.—At least 15 days before each obligation of funds for assistance under this section (including assistance authorized by subsection (j)), the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(h) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorization of appropriations contained in this section may be made available for obligation until expended.

(i) WAIVER OF BROOKE-ALEXANDER AMENDMENT.—The assistance authorized for Panama by this section may be provided notwithstanding section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)), and any similar provision of law relating to foreign assistance repayments.

(j) OTHER ASSISTANCE.—In addition to the funds authorized to be appropriated by this section for assistance for Panama, funds available for fiscal year 1990 under other provisions of law may be used to provide the economic assistance for Panama authorized by this section notwithstanding the provisions of law cited in subsection (i).

SEC. 102. ASSISTANCE FOR NICARAGUA.

(a) AUTHORIZATION OF APPROPRIATIONS.—In order to help restore the productive capacity of the Nicaraguan economy, restore Nicaragua's relations with international financial institutions, provide support for long-term economic growth and development in Nicaragua, strengthen democratic institutions in Nicaragua, and provide assistance for the repatriation and reconciliation process in Nicaragua, there are authorized to be appropriated $340,000,000 as supplemental appropriations for fiscal year 1990 for assistance in accordance with this section under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(b) ALLOCATIONS OF ASSISTANCE.—Except as provided in subsection (c), the funds authorized to be appropriated by subsection (a) shall be allocated and used as follows:

(1) RESTORING THE PRODUCTIVE CAPACITY OF THE NICARAGUAN ECONOMY.—$128,000,000 shall be for assistance to support the efforts of the Government of Nicaragua and the private sector in Nicaragua to restore the productive capacity of the Nicaraguan economy. Such assistance may include support for public and private sector imports of—

(A) agricultural equipment, spare parts, fertilizer, and other inputs needed to restore the agriculture sector;

(B) petroleum and oil products; and

(C) raw materials, equipment, intermediate goods, and spare parts to rehabilitate existing facilities and stimulate new productive enterprise in the industrial and agricultural sectors.

(2) PAYMENT OF ARREARAGES TO INTERNATIONAL FINANCIAL INSTITUTIONS.—$50,000,000 shall be for assistance to assist Nicaragua in paying its arrearages to international financial institutions. Such assistance shall be provided as part of a package of assistance for such purpose that includes the participation of the Government of Nicaragua and other donor nations and multilateral institutions. This effort should be accompanied by a rescheduling of official bilateral and commercial debt.

(3) ECONOMIC GROWTH AND DEVELOPMENT.—$75,000,000 shall be for assistance to assist Nicaragua to meet its longer-term economic growth and development needs, directly or through regional and other international institutions. Such assistance may include support for such activities as—

(A) programs to repair, improve, and maintain existing public infrastructure such as schools, health clinics, roads, and community facilities;

(B) provision of medical equipment, commodities, training, and other support for the health and family planning sectors;

(C) provision of assistance and training to improve government administration and strengthen democratic institutions;

(D) provision of technical assistance and training to the private sector to permit the rehabilitation and modernization of private enterprise in Nicaragua;

(E) support for primary school education and university level scholarships and training; and

(F) support for the agricultural sector through small farmer credit activities and improvement of input supply and production marketing systems.

(4) DEMOBILIZATION AND REPATRIATION; ASSISTANCE FOR REFUGEES AND DISPLACED PERSONS.—$87,000,000 shall be for assistance to support the demobilization and demilitarization process and to reintegrate former combatants (including members of the Nicaraguan Resistance), as well as Nicaraguan refugees and other Nicaraguans who have been displaced by the conflict, into the social, economic, and political life of Nicaragua, as follows:

(A) DEMOBILIZATION, REPATRIATION, AND RESETTLEMENT OF MEMBERS OF THE NICARAGUAN RESISTANCE.—(i) $30,000,000 shall be used to support the voluntary demobilization, repatriation, and resettlement of members of the Nicaraguan Resistance and their families.

(ii) Such assistance shall be provided—

(I) through the International Commission of Support and Verification (CIAV) established by the Secretary General of the United Nations and the Secretary General of the Organization of American States pursuant to the agreement of the Central American Presidents at Tela, Honduras, on August 7, 1989, and

(II) in coordination with the Government of Nicaragua,

unless the President notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(iii) Assistance may be provided under this subparagraph for members of the Nicaraguan Resistance only if there is agreement that such members will give up their weapons as part of the demobilization process.

(B) ONUCA.—$2,000,000 shall be used to support the Observer Group for Central America (ONUCA) if, with the consent of the United Nations Security Council, it plays a role in supporting the voluntary demobilization of former combatants and supporting safe conditions in Nicaragua in accord with the Central American peace process.

(C) REPATRIATION AND RESETTLEMENT OF REFUGEES AND DISPLACED PERSONS.—

$55,000,000 shall be used for the repatriation and resettlement in Nicaragua of Nicaraguan refugees and other Nicaraguans who have been displaced by the conflict in Nicaragua (without regard to whether they are within or outside Nicaragua). Such repatriation and resettlement shall be carried out under international auspices, including through the United Nations High Commissioner for Refugees (UNHCR) and the International Conference of Central American Refugees (CIREFCA), in coordination with the Government of Nicaragua. Assistance under this subparagraph may be provided under the authorities of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601 and following).

(c) CHANGES IN ALLOCATIONS.—

(1) REDUCTION OF ALLOCATIONS IF APPROPRIATIONS ARE LESS THAN SUM OF SPECIFIED ALLOCATION AMOUNTS.—If the aggregate amount appropriated pursuant to the authorization of appropriations provided by subsection (a) is less than the amount authorized, then the amount allocated pursuant to each paragraph of subsection (b) and each subparagraph of paragraph (4) of that subsection shall be the amount which bears the same ratio to the amount specified in that paragraph or subparagraph (as the case may be) as the amount appropriated bears to the amount authorized.

(2) REALLOCATIONS.—Funds allocated pursuant to any paragraph of subsection (b), or any subparagraph of paragraph (4) of that subsection, may be reallocated for use under any other such paragraph or subparagraph (as the case may be) if, at least 15 days before such reallocation, the President notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(d) CONGRESSIONAL NOTIFICATIONS.—At least 15 days before each obligation of funds for assistance under this section (including assistance pursuant to subsections (g) and (h)), the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(e) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorization of appropriations contained in this section may be made available for obligation until expended.

(f) WAIVER OF BROOKE-ALEXANDER AMENDMENT.—The assistance authorized for Nicaragua by this section may be provided notwithstanding section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)), and any similar provision of law relating to foreign assistance repayments.

(g) EXPANDING USES OF SURVIVAL ASSISTANCE FOR VICTIMS OF CIVIL STRIFE IN CENTRAL AMERICA.—Section 1 of the Act entitled "An Act to provide survival assistance to victims of civil strife in Central America", approved December 11, 1989 (Public Law 101-215), is amended—

(1) in the first sentence of subsection (a), by striking out "noncombatant";

(2) in the second sentence of subsection (a), by striking out "noncombatants" and inserting in lieu thereof "those"; and

(3) by repealing subsection (c).

(h) OTHER ASSISTANCE.—In addition to the funds made available by this section for assistance for Nicaragua, funds available for fiscal year 1990 under other provisions of law may be used to provide the economic assistance for Nicaragua authorized by this section, and to provide otherwise authorized training and services provided by the Office of Security of the Department of State for law enforcement personnel of Nicaragua for VIP protection and the physical protection of internationally protected persons and related facilities, notwithstanding the provisions of law cited in subsection (f).

(i) TRANSITION TO DEMOCRATIC GOVERNMENT.—

(1) SUSPENSION OF ASSISTANCE.—The President may suspend the provision of any assistance pursuant to this section if he determines that—

(A) there is not an orderly, peaceful, and complete transition from the existing Sandinista government to the duly elected democratic government in Nicaragua; or

(B) it is in the interest of the United States to suspend such assistance.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the President should work toward an orderly, peaceful, and complete transfer of power to the duly elected democratic government in Nicaragua.

SEC. 103. ADMINISTRATIVE USES OF FUNDS FOR PANAMA AND NICARAGUA.

Up to $10,000,000 of the funds authorized to be appropriated by sections 101 and 102 may be used for the purpose of paying administrative expenses incurred by the Agency for International Development in connection with carrying out its functions under those sections or under the Act entitled "An Act to implement the Bipartisan Accord on Central America of March 24, 1989", approved April 18, 1989 (Public Law 101-14).

SEC. 104. ASSISTANCE FOR HAITI.

(a) ASSISTANCE FOR FISCAL YEAR 1990.—

(1) ASSISTANCE FOR ELECTIONS AND CRITICAL IMPORTS.—There are authorized to be appropriated $20,000,000 as supplemental appropriations for fiscal year 1990 for assistance for Haiti under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), of which—

(A) up to $5,000,000 may be used for election assistance; and

(B) the remainder shall be used to finance critical imports.

Funds appropriated pursuant to the authorization of appropriations contained in this paragraph may be made available for obligation until expended.

(2) ANTI-TERRORISM ASSISTANCE.—Assistance may be provided for Haiti for fiscal year 1990 under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa and following).

(b) CONDITIONS ON ASSISTANCE.—The assistance authorized by subsection (a) shall be subject to the requirements of section 560(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), except that paragraph (1) of that section does not apply with respect to such assistance.

(c) CONGRESSIONAL NOTIFICATIONS.—Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) applies to the assistance authorized by subsection (a).

SEC. 105. ASSISTANCE FOR THE CARIBBEAN.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 as supplemental appropriations for fiscal year 1990 for assistance for the Caribbean under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund). Of that amount, $5,000,000 is authorized to be appropriated only for assistance for the Eastern Caribbean.

(b) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorization of appropriations contained in this section may be made available for obligation until expended.

SEC. 106. MIGRATION AND REFUGEE ASSISTANCE.

(a) FISCAL YEAR 1990 SUPPLEMENTAL AUTHORIZATION.—Section 104(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), is amended by striking out "$415,000,000" and inserting in lieu thereof "$458,409,000".

(b) EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND.—

(1) INCREASED AUTHORIZATION.—Section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)(2)) is amended by striking out "$50,000,000" and inserting in lieu thereof "$125,000,000".

(2) MIGRANT IMPACT ASSISTANCE.—If at any time during fiscal year 1990 the unobligated amount available to carry out section 2(c) of that Act exceeds $50,000,000 pursuant to the amendment made by paragraph (1), not less than one-third of the amount in excess of $50,000,000 shall be transferred under section 4(b) of that Act (22 U.S.C. 2603(b)) to appropriate Government agencies for use in providing migrant impact assistance to State and local governments to reimburse them for expenses they are legally required to incur with respect to migrants.

(3) AFRICAN AMERICAN HEBREW COMMUNITY IN ISRAEL.—Subject to paragraph (2), if at any time during fiscal year 1990 the unobligated amount available to carry out section 2(c) of that Act exceeds $50,000,000 pursuant to the amendment made by paragraph (1), up to $5,000,000 of that amount is authorized to be made available (without regard to paragraph (1) of that section) for assistance to address the needs of the African-American Hebrew community in Israel in accordance with an agreement among representatives of that community, the Government of Israel, and the Government of the United States.

(4) UNITED NATIONS RELIEF AND WORKS AGENCY.—Subject to paragraph (2), if at any time during fiscal year 1990 the unobligated amount available to carry out section 2(c) of that Act exceeds $50,000,000 pursuant to the amendment made by paragraph (1), up to $10,000,000 of that amount is authorized to be made available for a United States contribution to the United Nations Relief and Works Agency for Palestinian Refugees in the Near East.

SEC. 107. ASSISTANCE FOR SUB-SAHARAN AFRICA.

(a) ASSISTANCE FOR NAMIBIA.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 as supplemental appropriations for fiscal year 1990 for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), which shall be for assistance for Namibia following its transition to an independent democratic country.

(2) USES OF ASSISTANCE.—Except as provided in paragraph (3), funds appropriated under this subsection shall be provided to the Government of Namibia for budgetary support and to nongovernmental organiza-

tions to finance development activities in the priority sectors of agriculture, health, education, and housing.

(3) AID MISSION.—Up to $1,000,000 of the funds appropriated under this subsection shall be used for the expenses of establishing and maintaining an Agency for International Development mission in Namibia.

(b) DEVELOPMENT ASSISTANCE.—There are authorized to be appropriated $5,000,000 as supplemental appropriations for fiscal year 1990 for the "SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE" account under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance), which shall be for additional assistance for countries for which assistance under that account is allocated for fiscal year 1990 in the report submitted to the Congress pursuant to section 653 of the Act (22 U.S.C. 2413).

(c) ECONOMIC SUPPORT FUND ASSISTANCE.—There are authorized to be appropriated $5,000,000 as supplemental appropriations for fiscal year 1990 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 22346 and following; relating to the economic support), which shall be for assistance for countries for which assistance is allocated under the "SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE" account for fiscal year 1990 in the report submitted to the Congress pursuant to section 653 of the Act (22 U.S.C. 2413).

(d) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorizations of appropriations contained in this section may be made available for obligation until expended.

(e) NAMIBIA AND THE COMPREHENSIVE ANTI-APARTHEID ACT.—It is the sense of the Congress that as of March 21, 1990, when Namibia became self-governing, the definition of South Africa in the Comprehensive Anti-Apartheid Act of 1986 ceased to apply to Namibia.

SEC. 108. ASSISTANCE TO ENCOURAGE NEGOTIATIONS LEADING TO A PEACEFUL TRANSITION TO DEMOCRACY IN SOUTH AFRICA.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 as supplemental appropriations for fiscal year 1990 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), which shall be used to provide assistance, through the National Endowment for Democracy and other groups, to support programs and activities of organizations to encourage negotiations leading to a peaceful transition to a genuine democracy based on universal suffrage within a united South Africa.

(b) SUSPENSION OF VIOLENCE.—An organization which has engaged in armed struggle or other acts of violence shall be eligible for assistance under this section only if that organization is committed to a suspension of violence in the context of negotiations to establish a democratic system of government in South Africa.

(c) PROHIBITION ON USING FUNDS TO SUPPORT VIOLENCE.—In order to receive assistance under this section, an organization must agree that it will not use any of the funds made available to it under this section for the purpose of supporting physical violence by any individual, group, or government.

(d) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorization of appropriations contained in this section may be made available for obligation until expended.

SEC. 109. HOUSING INVESTMENT GUARANTEE PROGRAM FOR NEW IMMIGRANTS TO ISRAEL.

(a) ESTABLISHMENT OF PROGRAM.—Title III of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by inserting after section 222A (22 U.S.C. 2182a) the following new section:

"SEC. 222B. GUARANTY PROGRAM FOR HOUSING FOR NEW IMMIGRANTS TO ISRAEL.

"(a) AUTHORITY.—The President is authorized to issued guaranties to eligible investors (as defined in section 238(c)) assuring against losses incurred in connection with loans made for housing projects in Israel for newly arrived immigrants in that country.

"(b) LIMITATION.—The total principal amount of guaranties issued under this section that are outstanding at any one time may not exceed $400,000,000. The limitation established by the second sentence of section 222(a) does not apply with respect to guaranties issued under this section.

"(c) TERMS AND CONDITIONS.—The President may issue regulations from time to time with regard to the terms and conditions upon which such guaranties shall be issued and the eligibility of lenders.

"(d) FEES.—For each loan guaranteed under this section, the fee charged pursuant to section 223(a) shall be an initial fee of one quarter of 1 percent of the principal amount of such loan and an annual fee of one half of 1 percent of the outstanding principal balance of such loan, except that the total of all annual fees charged under this subsection each year shall not exceed $150,000.

"(e) APPROPRIATIONS ACTION REQUIRED.—The authority of this section may be exercised only to such extent or in such amount as may be provided in advance in appropriations Acts.".

(b) CONFORMING AMENDMENTS.—Section 223 of that Act (22 U.S.C. 2183) is amended—

(1) in subsection (a), by striking out "or 222A" and inserting ", 222A, or 222B";

(2) in subsection (b)—

(A) by inserting "or 222B" after "222" the first and third places it appears, and

(B) by inserting "and 222B" after "222" the second place it appears;

(3) in subsection (c), by inserting "or 222B" after "222";

(4) in subsection (d), by striking out "or 222A" and inserting ", 222A, or 222B";

(5) in subsection (f), by inserting "or 222B" after "222"; and

(6) in subsection (j)—

(A) in the second sentence, by striking out "this title" and inserting in lieu thereof "section 222", and

(B) in the third sentence, by inserting "under section 222" after "issued" both places it appears.

TITLE II—OTHER AUTHORIZATIONS

SEC. 201. CLAUDE AND MILDRED PEPPER SCHOLARSHIP PROGRAM.

(a) FINDINGS AND PURPOSE.—The Congress finds that freedom and movement towards democratic government reform are increasing worldwide and that thousands of high school and college students from foreign countries visit the United States each year to live and study. It is the purpose of this section to provide Federal financial assistance to facilitate a program to enable such students to spend from one to two weeks in Washington, District of Columbia, observing and studying the workings and operations of the democratic form of government of the United States.

(b) GRANTS.—The Director of the United States Information Agency is authorized to make grants to the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation to carry out the purpose specified in subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000 for the fiscal year 1990 to carry out this section.

SEC. 202. CERTAIN INTERNATIONAL AFFAIRS ACTIVITIES.

(a) CANADA.—Section 2 of Public Law 86-42 is amended—

(1) by striking out "$50,000" and inserting in lieu thereof "$100,000"; and

(2) by striking out "$25,000" both places it appears and inserting in lieu thereof "$50,000".

(b) MEXICO.—Section 2 of Public Law 86-420 is amended—

(1) by striking out "$50,000" and inserting in lieu thereof "$100,000"; and

(2) by striking out "$25,000" both places it appears and inserting in lieu thereof "$50,000".

(c) TRANSITION RULE.—Funds appropriated by section 303 of the Department of State Appropriations Act, 1988, shall be available for use pursuant to the amendments made by subsections (a) and (b) only to the extent that that section is amended in order to appropriate additional funds pursuant to those amendments.

SEC. 203. GORGAS MEMORIAL INSTITUTE.

(a) FINDINGS.—The Congress finds that the purposes and activities of the Gorgas Memorial Institute of Tropical and Preventive Medicine, Incorporated (hereafter in this section referred to as the "Institute") can be most effectively achieved through incorporation of the Institute with the Pan American Health Organization.

(b) NEGOTIATIONS.—The Secretary of State is urged to enter into negotiations with the Republic of Panama and the Pan American Health Organization to assure a transition of control of the Institute and its laboratories to the Pan American Health Organization that is satisfactory to the interested parties.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,500,000 for each of the fiscal years 1991, 1992, and 1993 for payment of a voluntary contribution by the United States to the Pan American Health Organization to provide continued support for the Institute.

SEC. 204. EXTENSION OF AU PAIR PROGRAMS.

The au pair programs which are designated, as of the date of enactment of this Act, by the Director of the United States Information Agency may be continued in effect until such time as another agency of the United States is authorized to implement such programs.

SEC. 205. TECHNICAL AND CONFORMING AMENDMENTS TO THE DEPARTMENT OF STATE APPROPRIATIONS ACT, 1990, AND THE FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1990 AND 1991.

The following provisions of law are repealed:

(1) Section 614 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162).

(2) Section 302 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246).

TITLE III—DEVELOPMENT FUND FOR AFRICA

SEC. 301. SHORT TITLE.

This title may be cited as the "Development Fund for Africa Act".

SEC. 302. DEVELOPMENT FUND FOR AFRICA.

(a) ENACTMENT OF AUTHORIZATION FOR DEVELOPMENT FUND.—Part I of the Foreign Assistance Act of 1961 is amended by adding after chapter 9 the following new chapter:

"CHAPTER 10—DEVELOPMENT FUND FOR AFRICA

"SEC. 496. LONG-TERM DEVELOPMENT ASSISTANCE FOR SUB-SAHARAN AFRICA.

"(a) FINDINGS.—The Congress finds that—

"(1) drought and famine have caused countless deaths and untold suffering among the people of sub-Saharan Africa;

"(2) drought and famine in combination with other factors such as desertification, government neglect of the agricultural sector, and inappropriate economic policies have severely affected long-term development in sub-Saharan Africa; and

"(3) the most cost-effective and efficient way of overcoming Africa's vulnerability to drought and famine is to address Africa's long-term development needs through a process that builds upon the needs and capabilities of the African people, promotes sustained and equitable economic growth, preserves the environment, and protects the rights of the individual.

"(b) AUTHORITY TO FURNISH ASSISTANCE.—The President is authorized to furnish project and program assistance, on such terms and conditions as he may determine in accordance with the policies contained in this section, for long-term development in sub-Saharan Africa.

"(c) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section is to help the poor majority of men and women in sub-Saharan Africa to participate in a process of long-term development through economic growth that is—

"(1) equitable, in that it enables the poor to increase their incomes and their access to productive resources and services so that they can satisfy their basic needs and lead lives of decency, dignity, and hope;

"(2) participatory, in that it enables the poor to contribute knowledge and other resources and to make and influence decisions that affect their lives;

"(3) environmentally sustainable, in that it maintains and restores the renewable natural resource base of the economy and wisely uses nonrenewable resources; and

"(4) self-reliant, in that it is based on indigenous institutions, private and public, local and national, that have the capacity (including the human resources and finances) to carry out development policies.

Assistance provided under this section should also, in a manner consistent with the preceding provisions of this subsection, encourage private sector development, promote individual initiatives, and help to reduce the role of central governments in areas more appropriate for the private sector.

"(d) APPLICATION OF DEVELOPMENT ASSISTANCE GENERAL AUTHORITIES AND POLICIES.—Except to the extent inconsistent with this section—

"(1) any reference in any law to chapter 1 of this part (including references to sections 103 through 106) shall be deemed to include a reference to this section; and

"(2) assistance under this section shall be provided consistent with the policies contained in section 102.

"(e) PRIVATE AND VOLUNTARY ORGANIZATIONS.—

"(1) CONSULTATION TO ENSURE LOCAL PERSPECTIVES.—The Agency for International Development shall take into account the local-level perspectives of the rural and urban poor in sub-Saharan Africa, including women, during the planning process for project and program assistance under this section. In order to gain that perspective the Agency for International Development should consult closely with African, United States, and other private and voluntary organizations that have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of long-term development in sub- Saharan Africa as described in subsection (c).

"(2) FUNDING FOR STRENGTHENING OF DEVELOPMENT EFFORTS.—In carrying out this section, the Agency for International Development should make available funds for the strengthening of development efforts by African, United States, and other private and voluntary organizations which have demonstrated effectiveness in or a commitment to the promotion of local grassroots activities on behalf of long-term development in sub-Saharan Africa as described in subsection (c).

"(3) DEFINITION OF PRIVATE AND VOLUNTARY ORGANIZATION.—For purposes of this section, the term 'private and voluntary organization' includes (in addition to entities traditionally considered to be private and voluntary organizations) cooperatives, credit unions, trade unions, women's groups, higher education institutions, nonprofit development research institutions, other intermediaries, and indigenous local organizations, which are private and nonprofit.

"(f) LOCAL INVOLVEMENT IN PROJECT IMPLEMENTATION.—Local people, including women, shall be closely consulted and involved in the implementation of every project under this section which has a local focus.

"(g) PARTICIPATION OF AFRICAN WOMEN.—The administering agency shall ensure that development activities assisted under this section incorporate a significant expansion of the participation (including decision-making) and integration of African women in each of the critical sectors described in subsection (i).

"(h) TYPES OF ASSISTANCE.—

"(1) PROJECTS AND PROGRAMS TO ADDRESS CRITICAL SECTORAL PRIORITIES.—Assistance under this section shall emphasize primarily projects and programs to address critical sectoral priorities for long-term development described in subsection (i).

"(2) REFORM OF NATIONAL ECONOMIC POLICIES.—

"(A) USE OF PROGRAM ASSISTANCE.—Assistance under this section may also include program assistance to promote reform of national economic policies affecting long-term development in sub-Saharan Africa as described in subsection (c), with primary emphasis on reform of national economic policies to support the critical sectoral priorities described in subsection (i).

"(B) PROTECTION OF VULNERABLE GROUPS.—Assisted policy reforms shall also include provisions to protect vulnerable groups (especially poor, isolated, and female farmers and the urban poor) and long-term environmental interests from possible negative consequences of the reforms.

"(3) OTHER ASSISTANCE.—Funds made available to carry out this section shall be used almost exclusively for assistance in accordance with paragraphs (1) and (2). Limited amounts of assistance, however, may be furnished under this section to address other priorities for long-term development in sub-Saharan Africa as described in subsection (c).

"(i) CRITICAL SECTORAL PRIORITIES.—The critical sectoral priorities for long-term development, as described in subsection (c), are the following:

"(1) AGRICULTURAL PRODUCTION AND NATURAL RESOURCES.—

"(A) AGRICULTURAL PRODUCTION.—Increasing agricultural production in ways which protect and restore the natural resource base, especially food production, through agricultural policy changes at the macroeconomic and sector levels, agricultural research (including participatory research directly involving small farmers) and extension, development and promotion of agriculture marketing activities, credit facilities, and appropriate production packages, and the construction and improvement of needed production-related infrastructure such as farm-to-market roads, small-scale irrigation, and rural electrification. Within this process, emphasis shall be given to promoting increased equity in rural income distribution, recognizing the role of small farmers.

"(B) NATURAL RESOURCE BASE.—Maintaining and restoring the renewable natural resource base in ways which increase agricultural production, through the following:

"(i) Small-scale, affordable, resource-conserving, low-risk local projects, using appropriate technologies (including traditional agricultural methods) suited to local environmental, resource, and climatic conditions, and featuring close consultation with and involvement of local people at all stages of project design and implementation. Emphasis shall be given to grants for African local government organizations, international or African nongovernmental organizations, and United States private and voluntary organizations.

"(ii) Support for efforts at national and regional levels to provide technical and other support for projects of the kinds described in clause (i) and to strengthen the capacities of African countries to provide effective extension and other services in support of environmentally sustainable increases in food production.

"(iii) Support for special training and education efforts to improve the capacity of countries in sub-Saharan Africa to manage their own environments and natural resources.

"(iv) Support for low-cost desalination activities in order to increase the availability of fresh water sources in sub-Saharan Africa.

"(2) HEALTH.—Improving health conditions, with special emphasis on meeting the health needs of mothers and children through the establishment of self-sustaining primary health care systems that give priority to preventive health.

"(3) VOLUNTARY FAMILY PLANNING SERVICES.—Providing increased access to voluntary family planning services, including encouragement of private, community, and local government initiatives.

"(4) EDUCATION.—Improving the relevance, equity, and efficiency of education, with special emphasis on improving primary education.

"(5) INCOME-GENERATING OPPORTUNITIES.—Developing income-generating opportunities for the unemployed and underemployed in urban and rural areas through, among other things, support for off-farm employment

opportunities in micro- and small scale labor-intensive enterprises.

"(j) MINIMUM LEVELS OF ASSISTANCE FOR CERTAIN CRITICAL SECTORS.—The Agency for International Development shall target the equivalent of not less than 10 percent of the amount authorized to be appropriated for each fiscal year to carry out this chapter for each of the following:

"(1) The activities described in subsection (i)(1)(B), including identifiable components of agricultural production projects.

"(2) The activities described in subsection (i)(2).

"(3) The activities described in subsection (i)(3).

"(k) EFFECTIVE USE OF ASSISTANCE.—Assistance provided under this section shall be concentrated in countries which will make the most effective use of such assistance in order to fulfill the purpose specified in subsection (c), especially those countries (including those of the Sahel region) having the greatest need for outside assistance.

"(l) PROMOTION OF REGIONAL INTEGRATION.—Assistance under this section shall, to the extent consistent with this section, include assistance to promote the regional and subregional integration of African production structures, markets, and infrastructure.

"(m) GENERATED LOCAL CURRENCIES.—

"(1) GENERATED UNDER THIS SECTION.—Local currencies generated under this section by the sale of imports or foreign exchange by the government of a country in sub-Saharan Africa shall be deposited in a special account established by that government. These local currencies shall be available only for use, in accordance with an agreement with the United States, for development activities which would be eligible for assistance under this section, except that the agreement shall require that the government of the country make available to the United States Government such portion of the amount deposited in the special account as may be determined by the President to be necessary for requirements of the United States Government. The Agency for International Development shall carefully monitor the deposit of local currencies and the use of such local currencies or their equivalent for specific developmental activities in accordance with this paragraph.

"(2) GENERATED UNDER OTHER AUTHORITIES.—Local currencies generated in sub-Saharan Africa under chapter 4 of part II of this Act or under section 106(b)(2), section 206, or title III of the Agricultural Trade Development and Assistance Act of 1954 that are to be used for development activities shall be used only for activities which would be eligible for assistance under this section.

"(n) DONOR COORDINATION MECHANISM.—Funds made available to carry out this section may be used to assist the governments of countries in sub-Saharan Africa to increase their capacity to participate effectively in donor coordination mechanisms at the country, regional, and sector levels.

"(o) POLICY ON USE OF FUNDS FOR PAYMENT OF OFFICIAL DEBT.—It shall be the policy of the United States that funds made available to carry out this section not be used to make payments with respect to any official debt owed to the United States Government, any foreign government, or any multilateral lending institution. Exceptions to this policy may be made—

"(1) only in certain instances where the recipient country's debt service is a significant barrier to development and where such payments would have a significant effect in leveraging additional flows of development finance; and

"(2) only after consultation with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(p) RELATION TO OTHER AUTHORITIES.—

"(1) ASSISTANCE UNDER OTHER AUTHORITIES.—The authority granted by this section to provide assistance for long-term development in sub-Saharan Africa is not intended to preclude the use of other authorities for that purpose. Centrally-funded programs which benefit sub-Saharan Africa shall continue to be funded under chapter 1 of part I of this Act.

"(2) TRANSFER AUTHORITIES.—(A) The transfer authority contained in section 109 of this Act shall not apply with respect to this section.

"(B) The transfer authority contained in section 610(a) of this Act may not be used to transfer funds made available to carry out this section in order to allow them to be used in carrying out any other provision of this Act.

"(3) REPROGRAMMING NOTIFICATIONS.—Section 634A of this Act does not apply with respect to funds made available to carry out this section.

"(4) PROCUREMENT OF GOODS AND SERVICES.—In order to allow the assistance authorized by this section to be furnished as effectively and expeditiously as possible, section 604(a) of this Act, and similar provisions relating to the procurement of goods and services, shall not apply with respect to goods and services procured for use in carrying out this section. The exemption provided by this paragraph shall not be construed to apply to the Comprehensive Anti-Apartheid Act of 1986.

"(q) SUPPORT FOR SADCC PROJECTS.—

"(1) AUTHORITY TO PROVIDE ASSISTANCE.—To the extent funds are provided for such purpose in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act, funds made available to carry out this chapter may be used to assist sector projects, in the sectors specified in paragraph (2), that are supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the 9 member states forming that regional institution.

"(2) SECTORS.—The sectors with respect to which assistance may be provided under this subsection are the following: transportation; manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives).

"(3) RELATION TO DFA POLICIES AND AUTHORITIES.—To the maximum extent feasible, the assistance authorized by this subsection shall be provided consistent with the policies and authorities contained in the preceding subsections of this section.

"SEC. 497. AUTHORIZATIONS OF APPROPRIATIONS FOR THE DEVELOPMENT FUND FOR AFRICA.

"(a) AUTHORIZATIONS.—The Congress will authorize appropriations to carry out this chapter.

"(b) EXTENDED AVAILABILITY OF FUNDS.—Funds appropriated to carry out this chapter are authorized to be made available until expended. It is the sense of the Congress that the authority of this subsection should be used to extend the period of availability of those funds whenever appropriate to improve the quality of assistance provided under section 496.

"SEC. 498. FUNDING FOR INCREASED AID ORGANIZATIONAL RESOURCES FOR SUB-SAHARAN AFRICA.

"The Administrator of the Agency for International Development may transfer up to 5 percent of the funds made available each fiscal year to carry out this chapter to the appropriations account for the operating expenses of the Agency for International Development for use in increasing (above the level of resources available for fiscal year 1989) the organizational resources which the agency has available for development assistance activities for sub-Saharan Africa. These funds shall be in addition to amounts otherwise allocated to the agency's Bureau for Africa.".

(b) EVALUATIONS.—The Administrator of the Agency for International Development shall periodically evaluate the progress of the agency in achieving the purpose specified in section 496(c) of the Foreign Assistance Act of 1961, as enacted by this section. The Administrator shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate—

(1) an interim evaluation by October 1, 1992; and

(2) a summary evaluation by February 1, 1997.

(c) REPORTS TO CONGRESS.—As part of the annual Congressional presentation materials for economic assistance, the Administrator of the Agency for International Development shall include a description of the progress made during the previous fiscal year in carrying out chapter 10 of part I of the Foreign Assistance Act of 1961, including for each sub-Saharan African country a brief description of—

(1) the nature and extent of consultation to ensure local perspectives, as described in subsection (e)(1) and (f) of section 496;

(2) the degree of involvement of local people in the implementation of projects having a local focus;

(3) the assistance provided to private and voluntary organizations pursuant to section 496(e)(2), specifying the amounts obligated for such assistance and comparing these amounts with those provided for the previous fiscal year;

(4) the extent to which there has been expansion of the participation and integration of African women in each of the critical sectors specified in section 496(i);

(5) program assistance provided to promote national economic policy reforms, including the amounts obligated, the criteria used for assisting national reforms, and the provisions made pursuant to section 496(h)(2)(B) to protect vulnerable groups from possible negative consequences of the reforms; and

(6) assistance for the critical sector priorities specified in section 496(i), by sector, including the amounts obligated.

Each report shall also describe organizational changes undertaken pursuant to section 498 and the amounts obligated and the amounts expended for these changes.

(d) CONFORMING AMENDMENTS.—

(1) FOREIGN ASSISTANCE ACT.—The Foreign Assistance Act of 1961 is amended—

(A) in section 105(b)—

(i) by striking out "(b)(1)" and inserting in lieu thereof "(b)"; and

(ii) by striking out paragraph (2);

(B) in section 116(e)(1), by adding at the end thereof "Funds made available to carry out section 496 of this Act may only be used under this subsection with respect to countries in Sub-Saharan Africa.";

(C) by repealing section 121; and

(D) in subsections (f) and (g) of section 123, by striking out "121, and 491" in each subsection and inserting in lieu thereof "491, and 496".

(2) PUBLIC LAW 480.—The Agricultural Trade Development and Assistance Act of 1954 is amended—

(A) in section 106(b)(2), by inserting "(or, in the case of sub-Saharan Africa, programs directed at comparable objectives contained in section 496" after "Foreign Assistance Act of 1961";

(B) in clause (3)(A) of section 206(a), by inserting "(or, in the case of sub-Saharan Africa, comparable objectives contained in section 496 of that Act)" after "section 103 of the Foreign Assistance Act of 1961";

(C) in section 301(b), by inserting "(or, in the case of sub-Saharan Africa, programs directed at comparable objectives contained in section 496)" after "Foreign Assistance Act of 1961"; and

(D) in section 303(b), by inserting "(or, in the case of sub-Saharan Africa, under section 496)" after "section 103 of the Foreign Assistance Act of 1961".

TITLE IV—CARIBBEAN REGIONAL DEVELOPMENT

SEC. 401. UNITED STATES POLICIES.

(a) IN GENERAL.—It shall be the policy of the United States in providing development and other economic assistance to the Caribbean—

(1) to help the poor (including women, the landless, subsistence food producers, urban workers, the unemployed, and indigenous populations) to participate in the development of their societies through a process of equitable economic growth that enables them to increase their incomes and their access to productive resources and services, to protect and advance their rights, and to influence decisions that affect their lives;

(2) to support development that is environmentally sustainable;

(3) to promote Caribbean self-reliance by providing assistance to indigenous national and regional governmental and nongovernmental institutions that have the capacity or potential to carry out development programs effectively;

(4) to support food production for national and regional consumption;

(5) to promote the diversification of industrial and agricultural production, the development of new products, and the integration of agricultural production with the development of industry and tourism;

(6) to help advance the process of regional economic integration by channeling assistance through regional organizations to the maximum extent possible;

(7) to support those national programs of economic adjustment that promote the policies enumerated in this section in order to help ensure that the burdens created by adjustment are not borne by the poor;

(8) to support employment generation while avoiding the displacement of traditional lines of small-scale production; and

(9) to preserve and reinforce traditional Caribbean culture and social values.

(b) DEVELOPMENT ASSISTANCE.—

(1) SUPPORTING INDIGENOUS DEMOCRATIC INSTITUTIONS.—Priority in providing assistance to the Caribbean under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) shall be given to supporting indigenous democratic Caribbean institutions (including farmers' unions, cooperatives, trade unions and other labor organizations, women's groups, and community organizations) that represent, work with, and benefit the poor, and through which the poor participate in making the decisions that affect their lives and their development. Such assistance shall be channeled to the maximum extent possible through United States institutions and Caribbean regional and national institutions that directly fund such democratic Caribbean institutions.

(2) PER CAPITA INCOME ELIGIBILITY CRITERIA.—In determining the eligibility of any country in the Caribbean for development assistance, the per capita income of that country shall be deemed to be no greater than the per capita income for the Caribbean as a whole.

(c) ECONOMIC SUPPORT FUND.—To the extent that assistance made available for the Caribbean under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) is used to promote national economic policy reforms, such reforms shall be consistent with the policies enumerated in sections 402 through 405 of this Act.

SEC. 402. PRIORITY AREAS FOR ASSISTANCE.

To implement the policies set forth in section 401, priority in the allocation of funds for assistance for the Caribbean under chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to development assistance and the economic support fund, respectively), and in the allocation of the local currencies accruing as a result of the use of those funds, shall be given to the following:

(1) FOOD SELF-SUFFICIENCY.—Support to national ministries of agriculture, the appropriate specialized agencies of the Caribbean Community (CARICOM) and the Organization of Eastern Caribbean States, the Caribbean Development Bank, and indigenous nongovernmental organizations for efforts to achieve greater food self-sufficiency through increased staple food production for domestic consumption, including support for—

(A) the gathering of agricultural data;

(B) the coordination of agricultural research;

(C) the improvement of marketing, storage, and transportation systems;

(D) the provision of credit to agricultural producers; and

(E) improved coordination of regional planning for food self-sufficiency.

(2) RURAL DEVELOPMENT.—Support, principally through regional institutions, for rural development efforts designed to increase rural employment opportunities, enhance the quality of rural life, and retard rural-to-urban migration, including programs that provide access to land and necessary assistance to small producers and cooperatives.

(3) COMMUNITY-BASED AGRO-INDUSTRIES.—Support for locally owned cooperative and other small- and medium-scale industries engaged in the processing of indigenous resources, including support for the establishment of a marketing network to facilitate intraregional trade in food through programs that incorporate or serve small producers.

(4) FINANCIAL RESOURCES FOR SMALL- AND MEDIUM-SIZED FARM AND MANUFACTURING ENTERPRISES.—Provision of financial resources to small- and medium-sized farm and manufacturing enterprises through—

(A) the creation and capitalization of appropriate financial mechanisms; and

(B) measures to encourage Caribbean commercial banks and credit unions to provide risk capital to such enterprises.

(5) EXPANSION OF TOURISM.—Support for the expansion of tourism in the Caribbean through its fuller integration into the local economy, by providing assistance—

(A) to appropriate governmental and nongovernmental regional organizations for the design and coordination of programs for—

(i) the expansion of the use of local goods and services;

(ii) the development and implementation of a marketing strategy for tourism in the Caribbean; and

(iii) the promotion of investments in tourism integrated with the local economy; and

(B) for training and utilizing local expertise in hotel and restaurant management and other necessary skills.

(6) REGIONAL INTEGRATION.—Support for regional integration and institutions, including seeking the cooperation of other donor countries in promoting regional development in the Caribbean and including support for—

(A) efforts to regionalize and coordinate activities and prevent the proliferation and duplication of regional bureaucracies;

(B) the efforts of governmental and nongovernmental regional institutions to strengthen the infrastructure necessary to promote regional commercial activity and economic and social development;

(C) regional research institutes; and

(D) inter-island transportation and communication links, roads, and port facilities.

(7) UPGRADING TECHNICAL AND MANAGERIAL SKILLS.—Support for efforts of the countries of the Caribbean to upgrade the technical and managerial skills of their people, through—

(A) the increased utilization of local personnel, knowledge, technologies, and expertise in all development-related activities;

(B) support, including scholarships, for training in appropriate technical fields, including administration, finance, marketing, science, technology, environmental protection, and tourism; and

(C) support for increasing the capacity of Caribbean institutions to provide training in such fields.

(8) NATURAL RESOURCE BASE.—Promoting those small-scale, affordable, agricultural and industrial methods suited to local environmental, resource, and climatic conditions, and supporting such actions as the establishment of protected areas, the development of environmental curricula, and programs of public education and dialogue designed to sustain and enhance the renewable natural resource base of the Caribbean.

(9) PRIVATE SECTOR DEVELOPMENT.—Support for the diversification and promotion of Caribbean exports, for investments in the Caribbean that are appropriate to the needs of the region, and for the strengthening of private sector institutions, that would further the policy set forth in section 401(a)(5), and particularly that would strengthen the sector referred to in paragraph (3) of this section.

(10) DEMOCRATIC DEVELOPMENT AND THE ADMINISTRATION OF JUSTICE.—Support to broaden and deepen democratic institutions and values in the Caribbean and to assist countries in areas such as the administration of justice where requested by the recipient governments.

(11) ACCESS TO HUMAN SERVICES AND ASSISTANCE FOR HUMAN RESOURCES DEVELOPMENT.—Support for the provision of basic services to the citizens of the Caribbean using, as appropriate, governmental and non-governmental entities, with emphasis on sustainability of service delivery in areas such as basic education, primary health care, child survival, family planning, and prevention and control of acquired immune deficiency syndrome (AIDS).

SEC. 403. PROTECTION OF WORKER RIGHTS.

(a) DENIAL OF ASSISTANCE.—

(1) IN GENERAL.—Assistance under the Foreign Assistance Act of 1961 and the Arms Export Control Act—

(A) may not be provided to the government of any country in the Caribbean if that government does not extend, protect, and enforce internationally recognized worker rights for workers in that country (including workers within any designated zone); and

(B) may not otherwise be provided for a country in the Caribbean if the provision of that assistance would be inconsistent with promoting respect for internationally recognized worker rights.

(2) ASSISTANCE IF CERTAIN STEPS TAKEN.—Assistance may be provided to a government notwithstanding paragraph (1)(A) if that government is taking steps to adopt and implement laws that demonstrate significant, tangible, and measurable overall advancement in providing internationally recognized worker rights throughout the country (including in any designated zone).

(3) EXEMPTIONS.—Paragraph (1) does not apply with respect to development assistance or narcotics control assistance provided under this Act.

(b) ANNUAL REPORTS.—Each human rights report required by sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 shall address how the provisions of this section were implemented during the preceding fiscal year.

(c) DEFINITIONS.—As used in this section—

(1) the term "designated zone" has the same meaning it has for purposes of the Trade Act of 1974; and

(2) the term "internationally recognized worker rights" has the same meaning as is given that term by section 502(a)(4) of the Trade Act of 1974.

SEC. 404. PROTECTION OF PUBLIC HEALTH.

The Agency for International Development shall not provide any assistance, directly or indirectly, for the use of any chemical or other substance in a country in the Caribbean if—

(1) that use is not permitted under laws of that country relating to protection of public health, or

(2) that use would not be permitted in the United States under laws of the United States relating to protection of public health.

SEC. 405. SUPPORT FOR WOMEN'S ROLE IN DEVELOPMENT.

In providing assistance to the Caribbean, the Agency for International Development shall place emphasis on ensuring the active participation of Caribbean women in the development process, particularly through—

(1) the promotion of greater access by women to productive resources and services, such as land, credit, and markets, thereby increasing the economic security of women and their dependents;

(2) programs that respond to and support women's domestic needs and activities, including the strengthening of community-based education, health, and childcare programs and other critical social services identified by poor women; and

(3) the involvement of Caribbean women in research on the factors that contribute to their economically vulnerable situation, in programs that address these factors, and in the design and implementation of development projects.

SEC. 406. CONSULTATION, MONITORING, EVALUATION, AND REPORTING.

(a) CONSULTATION.—In all stages of the design and implementation of assistance policies, programs, and projects in the Caribbean, the Agency for International Development shall take into account the perspectives of the rural and urban poor through close and regular consultation with Caribbean organizations that work with the poor and that have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of long-term development in the Caribbean, as described in section 401(a). The Agency for International Development shall reflect the results of such consultations in its annual planning documents.

(b) MONITORING.—The Agency for International Development shall monitor socioeconomic conditions in the Caribbean and the effect of United States economic assistance programs and policies on those conditions. The Agency for International Development shall involve Caribbean governments, and Caribbean nongovernmental organizations that work at the grassroots level, in such monitoring.

(c) EVALUATION.—Not later than 3 years after the date of enactment of this Act, the Office of Technology Assessment—

(1) shall conduct an evaluation of the performance of the Agency for International Development in carrying out this title; and

(2) shall report the result of that evaluation to the Congress.

(d) ANNUAL REPORTS TO CONGRESS.—The Administrator of the Agency for International Development shall submit to the Congress, at the same time as the annual congressional presentation materials for economic assistance are submitted, an analysis of—

(1) the effectiveness of the programs conducted under this title in furthering the polices set forth in section 401 and in carrying out each of the priorities of section 402, including the amounts expended on each such program;

(2) the nature and results of consultations under subsection (a), and the impact of such consultations on the programs undertaken to carry out this title; and

(3) the results of the monitoring under subsection (b).

SEC. 407. DEFINITION OF CARIBBEAN.

As used in this title, the term "Caribbean" includes Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Cayman Islands, Montserrat, Netherlands Antilles, Saint Christopher-Nevis, Turks and Caicos Islands, and the British Virgin Islands.

TITLE V—EL SALVADOR

SEC. 501. ASSISTANCE FOR EL SALVADOR.

(a) STATEMENT OF POLICY.—It shall be the policy of the United States—

(1) to support the Central American Presidents' Agreement of December 12, 1989, calling upon the Farabundo Marti National Liberation Front (hereafter in this section referred to as the "FMLN") to cease its hostilities and renounce all types of violent actions that may directly or indirectly affect the civilian population of El Salvador;

(2) to support an active role for the Secretary General of the United Nations and the Secretary General of the Organization of American States in negotiations between the Government of El Salvador and the FMLN for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

(3) to review the level of military assistance for El Salvador on a periodic basis, taking into account both—

(A) the demonstrated willingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

(B) the actions of each side that affect the basic human rights of the Salvadoran people.

(b) INCENTIVES FOR PEACE: AMOUNTS OF MILITARY ASSISTANCE AVAILABLE FOR EL SALVADOR.—

(1) FISCAL YEAR 1990: CONDITIONAL WITHHOLDING OF HALF OF REMAINING MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1990 that are unexpended on the date of enactment of this Act shall be withheld from expenditure for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

(2) FISCAL YEAR 1991.—

(A) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—The amount allocated for military assistance for El Salvador for fiscal year 1991 may not exceed $85,000,000.

(B) CONDITIONAL WITHHOLDING OF HALF OF MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1991 shall be withheld from obligation for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

(C) TRANCHING OF ASSISTANCE.—Not more than half of the amount allocated for military assistance for El Salvador for fiscal year 1991 that is not being withheld from obligation pursuant to subparagraph (B) may be obligated before March 1, 1991. In order to provide time for congressional review of the report required to be submitted on that date by subsection (f), funds that become available for obligation under this subparagraph as of that date may not be expended during the 30-day period beginning on that date.

(3) USE OF FUNDS IF DETERMINATION REGARDING FMLN NOT MADE.—

(A) DEVELOPMENT ASSISTANCE.—At the end of fiscal year 1990 and at the end of fiscal year 1991, the President shall transfer any military assistance funds then being withheld pursuant to paragraph (1) or paragraph (2)(B) to appropriations accounts for development assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following) for use in providing assistance for child nutrition, health, housing, education, or other programs serving the basic human needs of the people of El Salvador. Funds so transferred shall remain available until expended notwithstanding any other provision of law. Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) applies with respect

to the obligation of any funds so transferred.

(B) EXCEPTION.—Notwithstanding subparagraph (A) and paragraph (1), fiscal year 1990 funds withheld from expenditure pursuant to paragraph (1) may be used for cancellation expenses for military assistance programs for El Salvador, so long as such use does not result in the delivery of any military assistance to El Salvador.

(4) TERMINATION OF MILITARY ASSISTANCE.—If the President submits to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), all military assistance for El Salvador for fiscal year 1990 and fiscal year 1991 shall be terminated, including deliveries of previously obligated military assistance. All military assistance shall be terminated pursuant to this paragraph without regard to whether a report is submitted containing the determination regarding the FMLN described in subsection (c).

(5) RESUMPTION OF MILITARY ASSISTANCE.—If, after submitting to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), the President finds that the facts giving rise to that determination no longer prevail, the President may submit to the Congress a report describing the reasons for such finding. If the President submits such a report under this paragraph, military assistance for El Salvador may be resumed, subject to the requirements of this section.

(c) CONDUCT OF THE FMLN RESULTING IN A RELEASE OF WITHHELD ASSISTANCE.—The determination described in this subsection is a determination by the President that—

(1) the representatives of the FMLN—

(A) are declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict in El Salvador, or

(B) are rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

(2) the United States Government has proof that the FMLN is continuing to acquire or receive significant shipments of lethal military equipment from outside El Salvador, and this proof has been shared with the Congress; or

(3) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN.

(d) CONDUCT OF THE GOVERNMENT OF EL SALVADOR RESULTING IN A TERMINATION OF ASSISTANCE.—The determination described in this subsection is a determination by the President that—

(1) the duly-elected Head of Government of El Salvador has been deposed by military coup or decree;

(2) the Government of El Salvador is declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict, or is rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations; or

(3) the Government of El Salvador is failing to conduct a thorough and professional investigation into, and prosecution of those responsible for, the 8 murders at the University of Central America on November 16, 1989.

(e) SUBMISSION OF REPORTS CONTAINING DETERMINATIONS.—The President may submit to the Congress at any time a report containing the determination regarding the FMLN described in subsection (c) or containing the determination regarding the Government of El Salvador described in subsection (d). If the President determines that any of the conditions described in subsection (c) or subsection (d) exist, the President shall immediately report that determination to the Congress.

(f) REPORTS ON SITUATION IN EL SALVADOR.—Thirty days after the date of enactment of this Act and on March 1, 1991, the President shall submit to the Congress a report describing—

(1) the willingness or unwillingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador;

(2) the status of the negotiations;

(3) the criteria that the President will use in deciding whether to make the determinations described in subsections (c) and (d) with respect to negotiations and other issues; and

(4) any actions of the Government of El Salvador (including the armed forces) and the FMLN that are having an adverse impact on the basic human rights of the Salvadoran people.

(g) SUPPORT FOR DEMOCRACY PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador. The program shall be designed to—

(A) assist and involve all prodemocratic sectors in El Salvador in efforts to strengthen civilian control over the armed forces;

(B) establish an effective judicial system;

(C) facilitate the free and open exchange of political views;

(D) provide for monitoring and other activities in support of free and fair elections; and

(E) increase respect for basic civil and human rights.

(2) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated $10,000,000 for fiscal year 1991 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(h) EXPEDITED CONGRESSIONAL REVIEW PROCEDURES.—

(1) DEFINITION OF PRIVILEGED JOINT RESOLUTION.—For purposes of this subsection, the term "privileged joint resolution" means a joint resolution—

(A) which—

(i) in the case of the House of Representatives, is reported by the Committee on Foreign Affairs, and

(ii) in the case of the Senate, is reported by the Committee on Foreign Relations,

during the 30-day period beginning on March 1, 1991;

(B) which would place conditions or limitations, or both, on expenditures of military assistance funds for El Salvador for fiscal year 1991;

(C) which does not contain any provision which is not germane to the conditions and limitations provided for in the joint resolution; and

(D) the title of which is as follows: "Joint resolution relating to military assistance for El Salvador for fiscal year 1991.".

(2) MOTION FOR FLOOR CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) after the day on which a privileged joint resolution is reported by the Committee on Foreign Affairs or the Committee on Foreign Relations (as the case may be), it shall be in order (even though a previous motion to the same effect has been disagreed to) for the chairman of that committee (or his designee) to move to proceed to the consideration of that joint resolution. In the House of Representatives the motion shall be that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution. The motion may be made in the Senate notwithstanding any rule or precedent of the Senate, including Rule 22. All points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed to the consideration of the joint resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to by a House of Congress, that House shall immediately proceed to the consideration of the joint resolution without intervening motion, order, or other business, and that joint resolution shall remain the unfinished business of the respective House until disposed of.

(3) DEBATE TIME.—Debate on a privileged joint resolution, and on all debatable motions and appeals in connection therewith (other than amendments made in order in the House of Representatives under paragraph (4) and a motion to recommit in the House under paragraph (7)), shall be limited to not more than 4 hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion further to limit debate is in order and not debatable.

(4) AMENDMENTS IN THE HOUSE OF REPRESENTATIVES.—Amendments to a privileged joint resolution shall be in order, and shall be debatable, in the House of Representatives to the extent ordered by the House.

(5) AMENDMENTS IN THE SENATE.—Amendments to a privileged joint resolution are not in order in the Senate.

(6) CERTAIN MOTIONS NOT IN ORDER.—A motion to postpone or to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which a privileged joint resolution is agreed to or disagreed to is not in order.

(7) FINAL PASSAGE IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, at the conclusion of debate on a privileged joint resolution and consideration of any amendments made in order to the joint resolution, the Committee of the Whole shall rise and report the resolution back to the House, and the previous question shall be considered as ordered on the joint resolution, with any amendments adopted in the Committee of the Whole, to final passage without intervening motion except one motion to recommit.

(8) FINAL PASSAGE IN THE SENATE.—In the Senate, immediately following the conclusion of the debate on a privileged joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote

on final passage of the joint resolution shall occur.

(9) APPEALS FROM DECISION OF THE CHAIR NOT DEBATABLE IN THE SENATE.—Appeals in the Senate from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a privileged joint resolution shall be decided without debate.

(10) CONGRESSIONAL RULEMAKING POWERS.—This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a privileged joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(i) DEFINITION OF MILITARY ASSISTANCE.—For purposes of this section, the term "military assistance" means assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the foreign military financing program) or under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program).

The CHAIRMAN. No amendments to the bill shall be in order except those amendments printed in House Report 101-489. Said amendments shall be considered in the order and manner specified in said report, shall be considered as having been read, and shall not be subject to amendment. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a member opposed thereto.

The amendments numbered 1 shall be considered en bloc and shall not be subject to a demand for a division of the question.

If amendments numbered 4 and 5 are adopted, only the latter amendment adopted shall be considered as finally adopted and reported back to the House.

It is now in order to considered amendment No. 1 printed in House Report 101-489.

AMENDMENTS EN BLOC OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, pursuant to the rule, I offer five amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

Amendments en bloc offered by Mr. FASCELL: Page 31, after line 6, insert the following new section:

SEC. 110. AUTHORITY TO TRANSFER FY 1990 MILITARY ASSISTANCE FUNDS TO ECONOMIC ASSISTANCE ACCOUNTS.

For purposes of section 610(a) of the Foreign Assistance Act of 1961, funds made available for fiscal year 1990 to carry out section 23 of the Arms Export Control Act shall be deemed to be funds made available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961.

Page 31, after line 6, insert the following:

SEC. 110. REQUIREMENT THAT CERTAIN AIRCRAFT BE LEASED RATHER THAN SOLD.

(a) AVAILABILITY OF CERTAIN FUNDS TO SATISFY REQUIREMENT.—For purposes of satisfying the requirement of section 484 of the Foreign Assistance Act of 1961, funds appropriated for counter-narcotics programs by section 602 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) that are allocated for assistance for Bolivia and Peru may be used to finance the leasing to those countries, under chapter 6 of the Arms Export Control Act, of up to 11 UH-1H helicopters.

(b) COST OF LEASES.—Section 61(a)(3) of the Arms Export Control Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the helicopters if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

(c) REIMBURSEMENT OF SDAF.—To the extent that helicopters so leased were acquired under chapter 5 of the Arms Export Control Act, funds used pursuant to this section to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.

(d) CERTAIN REPORTING REQUIREMENTS.—Leases financed under this section may be entered into without regard to the requirement of section 62 of the Arms Export Control Act for advance certification to the Congress; that section applies, however, to any renewal of any such lease.

Page 34, strike out lines 1 through 12.

Page 34, after line 12, insert the following:

SEC. 206. FUNDING FOR CERTAIN INTERNATIONAL EXPOSITIONS.

Section 201(b) of the Foreign Relations Authorizations Act, Fiscal Years 1990 and 1991, is amended—

(1) by striking out "SEVILLE WORLD'S FAIR" and inserting in lieu thereof "INTERNATIONAL EXPOSITIONS"; and

(2) by striking out "for fiscal year 1990, $7,30,000 for United States participation in the World's Fair in Seville, Spain" and inserting in lieu thereof $7,300,000 for United States participation in the International Expositions in Seville, Spain and Genoa, Italy".

Page 34, after line 12, insert the following:

SEC. 206. CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.

(a) SHORT TITLE.—This section may be cited as the "Center for Cultural and Technical Interchange between North and South Act of 1990".

(b) PURPOSE.—The purpose of this section is to promote better relations between the United States and the nations of Latin America, and the Caribbean and Canada through cooperative study, training, and research, by supporting in Florida a Center for Cultural and Technical Interchange Between North and South where scholars and students in various fields from the nations of the Hemisphere may study, give and receive training, exchange ideas and views, and conduct other activities primarily in support of the objectives of the United States Information and Educational Exchange Act of 1948 and other Acts promoting international, educational, cultural, scientific, and related activities of the United States.

NORTH-SOUTH CENTER.—In order to carry out the purpose of this section, the Director of the United States Information Agency shall provide for the operation in Florida of an educational institution to be known as the North-South Center, through arrangements with public, educational, or other nonprofit institutions.

(d) AUTHORITIES.—The Director of the United States Information Agency, in carrying out this section, may utlize the authorities of the United States Information and Educational Exchange Act of 1948. Section 704(b) of Mutual Security Act of 1960 (22 U.S.C. 2056(b)) shall apply in the administration of this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropiated $10,000,000 for fiscal year 1991 to carry out this section. Amounts appropriated under this section are authorized to be made available until expended.

The CHAIRMAN. The gentleman from Florida [Mr. FASCELL] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair now recognizes the gentleman from Florida [Mr. FASCELL].

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

Mr. Chairman, pursuant to the rule, I now bring up five amendments en bloc. These amendments represent needs expressed by the administration with respect to our international narcotics control program in the Andean countries, authority for the United States to participate in the World's Fair International Exposition in Seville, Spain and Genoa, Italy in 1992, and authority to establish a Center for Cultural and Technical Interchange between North America and the other nations of the Western Hemisphere. Finally, the bloc includes a procedural amendment relating to the Commerce, Justice, State Appropriations Act of 1990.

These amendments are noncontroversial in nature and have been worked out in consultation with the ranking minority member of the committee, Mr. BROOMFIELD of Michigan, and other interested members on both sides of the aisle.

I urge the adoption of the en bloc amendments.

Mr. BROOMFIELD. Mr. Chairman, I rise to indicate my support for these en bloc amendments as proposed by the chairman of the committee, the gentleman from Florida [Mr. FASCELL].

Mr. Chairman, as the distinguished chairman of the House Foreign Affairs Committee has indicated, this en bloc amendment contains five provisions.

The first amendment enables the Department of Defense to forward helicopters to Peru and Bolivia to enhance antinarcotics efforts of those countries. The title to the helicopters would, however, remain in the United

States to ensure that their use is consistent with U.S. policy in the region.

The second amendment allows the transfer of funds from military assistance to economic assistance. This provision provides the President with the flexibility to respond to the rapidly changing needs of the Andean nations in their fight against drugs.

The third amendment strikes a portion of the bill which would release State Department funds at fiscal year 1990 levels. It is my understanding that this provision is a part of the supplemental appropriations conference report we are to consider tomorrow.

The fourth amendment authorizes $7.3 million to fund United States exhibits at the Seville World's Fair in Spain and at the Genoa, Italy Celebration to commemorate Columbus' discovery of America. While this money was previously authorized, it has not been appropriated.

The fifth amendment authorizes $10 million in 1991 for the establishment of a north-south center. This is an effort to build better relations between the nations of the Northern and Southern Hemispheres through the promotion of cultural and educational exchange and is, of course, subject to appropriation.

I have no objection to the en bloc amendments and I urge its adoption.

Mr. GOSS. Mr. Chairman, the Fascell en bloc amendment which we are debating today contains an amendment on the titling of aircraft that I would like to address in more detail. Although this is a technical amendment, the issue at stake is the President's Andean initiative and the precedent set for military assistance in general.

Section 484 of the Foreign Assistance Act of 1961, enacted in 1986, says that any aircraft provided under the INM program, or primarily for narcotics-related purposes under any other provision of law, may only be provided on a lease or loan basis. It is clear that the Congress intended to be able to reclaim aircraft promptly from countries in situations where the equipment was not being used for counternarcotics purposes.

The International Narcotics Control Act, which was passed in November 1989, authorized military equipment and assistance for the President's International Cocaine Control Program. Equipment is to be provided under the Arms Export Control Act which requires sales, meaning a transfer of title. As a consequence of this legislative conflict, helicopters intended for Bolivia and Peru in 1989 still have not been provided for fighting the drug war.

Congress and the administration have been attempting to resolve this issue over the period of the last 2 months. Mr. SMITH of Florida has offered a fix to the title issue while the administration has offered, as part of their 1991 legislative package, something entirely different. I think that it is only fair to give my colleagues the administration's solution to the conflict as well.

The administration amendment would grant authority to the President to waive section 484 and, in appropriate cases, transfer title to aircraft. Some of our narcotics-fighting allies may not accept aircraft unless title is transfered.

The Smith amendment on leasing or loaning aircraft would permit leases or loans under the Arms Export Control Act; this change has the potential to affect worldwide military assistance programs. While an immediate fix is needed in order to fully commence the centerpiece of the President's international program, Mr. Smith's amendment does not adequately respond to the problem.

Not only does mandatory leasing and loaning restrict the President's flexibility, it sends a signal to our counternarcotics allies that we distrust them. Even more important, such a requirement would thrust us into a more central role, when we want to keep the principal responsibility for the source country war on drugs with the Andean nations themselves. This very issue has been of increasing debate by my colleagues on the Foreign Affairs Committee in particular regard to U.S. military assistance to Peru.

While I agree on the intent of the legislation—that is, accountability on the part of foreign governments to use equipment for the purposes it was provided for—the ultimate authority over the use of any equipment is future year authorizations and appropriations. The multiyear Andean initiative explicitly states that if countries do not perform in narcotics control this year, they jeopardize their receipt of next year's counternarcotics and economic assistance.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Florida [Mr. FASCELL].

The amendments en bloc were agreed to.

AMENDMENT OFFERED BY MR. KOSTMAYER

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KOSTMAYER: Page 10, strike out line 10 and all that follows through line 2 on page 11 and insert in lieu thereof the following:

(3) AGREEMENT TO SHARE INFORMATION RELATING TO MONEY LAUNDERING.—Not more than half of the funds appropriated pursuant to the authorization of appropriations provided in this section may be expended until the Secretary of State, after consultation with the Secretary of the Treasury, certifies to the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that the Government of the United States and the Government of Panama have signed one or more agreements that provide for mutual and timely access to records of financial transactions for purposes of investigations relating to illicit drug trafficking and money laundering.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. KOSTMAYER] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

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

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, as I understand the amendment of the gentleman from Pennsylvania [Mr. KOSTMAYER], it is the same language as the language in the bill except it eliminates the Presidential waiver. Am I correct on that?

Mr. KOSTMAYER. Mr. Chairman, the gentleman is correct.

Mr. FASCELL. We have examined the amendment, Mr. Chairman, and have no objection to it on this side.

Mr. KOSTMAYER. Mr. Chairman, I would yield to the distinguished gentleman from Michigan [Mr. BROOMFIELD] in order that he may accept my amendment, which I know is something he wants very much to do.

Mr. BROOMFIELD. Mr. Chairman, we are trying to put together two amendments, one involving the Kostmayer amendment and the other the Dreier amendment.

Mr. KOSTMAYER. Mr. Chairman, I ask unanimous consent that the Kostmayer amendment and the Dreier amendment be considered en bloc and be accepted.

The CHAIRMAN. The Chair will state that it is in order to consider a unanimous request only to modify a pending amendment.

Mr. FASCELL. Mr. Chairman, may I suggest that we act on the Kostmayer amendment first and then act on the Dreier amendment next. I will say to the gentleman from Michigan [Mr. BROOMFIELD] that we have examined the Dreier amendment and when we get to it, we are prepared on this side to accept it.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, the President has asked us to provide about a billion dollars in assistance to Panama; $470 million of that is in cash assistance in the bill before us, the rest is indirect assistance such as the restoration of the United States sugar quota, trade credits, and housing guarantees.

A billion dollars is a lot of money—some of us think that it is too much, Mr. Chairman. Nonetheless, I am prepared to recognize our obligation and responsibility to Panama and support the President's request, but not without a signed agreement between the two countries in which Panama shares money laundering information with the United States. That's just what this amendment does.

Under the committee bill, one half of the cash assistance is held back until such an agreement is signed, but the President is empowered to release all of the assistance if he certifies that Panama is negotiating an agreement in good faith on money laundering. My amendment strikes the provision in the bill allowing the President to release the assistance based only on this certification of good faith. Good faith is not enough, Mr. Chairman. The American taxpayer wants an agreement, signed, sealed and delivered.

Mr. Chairman, my amendment would not injure Panama's chances to rebuild itself. The

administration is committed to not seeking a waiver until November—surely a signed agreement can be reached by then, but if one has not been, something is terribly wrong and the remaining half of this assistance should not be released. In other words, Mr. Chairman, they have 6 months to reach an agreement.

Mr. Chairman, I believe that we have an obligation to help Panama to its feet, and I think that we should do so with all deliberate speed. But we have other critical concerns, including the need to stop money laundering in Panama. This amendment will help to do that.

□ 1800

Mr. BROOMFIELD. Mr. Chairman, if the gentleman will yield, we accept the Kostmayer amendment.

Mr. TORRES. Mr. Chairman, I rise today in support of the Kostmayer amendment to H.R. 4636, the Supplemental Assistance for Emerging Democracies Act. We need the Kostmayer amendment to ensure, once and for all, that an agreement is finalized with Panama to stop the laundering of billions of dollars of drug money through their banks. Without the Kostmayer amendment, we only have assurances that more talks will be held, that more time will pass before a serious effort to combat money laundering becomes law in Panama.

As a member of the Banking Committee, I have, for a number of years, been actively working to strengthen our domestic banking laws to curb money laundering through U.S. banks. I am equally distressed by drug money-laundering transactions in Panama, which are to a large extent, facilitated by Panama's current bank secrecy laws.

It is estimated that as many as one-third of all Panama's banks are involved in money laundering. Yet, not a one has been prosecuted for money laundering and all of them remain in operation today. Unfortunately, money laundering remains big business in Panama. This is just not acceptable as we in this country are undertaking an all-out war on drugs and drug-related crime. The American people are committed to ending the drug scourge and we should expect no less of a commitment from those countries to whom we extend our taxpayers' dollars.

While I am pleased to see the bill before us today withholds half of the aid to Panama until an agreement is signed, it allows the administration to release these funds upon certification that the Panamanians are negotiating in good faith. Unfortunately, good faith does not guarantee an agreement any time soon. It could take months, even years, before an agreement is reached. If, indeed, the negotiations are currently proceeding well, the Kostmayer amendment provides a terrific incentive to spur them along to completion.

The Kostmayer amendment allows us to secure from the Panamanians positive, measurable progress in the war on money laundering in exchange for our aid dollars. I urge my colleagues to support this amendment.

Mr. ANNUNZIO. Mr. Chairman, drugs are an international scourge. Drug-producing plants are grown in one country, processed in another and consumed in yet another. The profits are laundered through banks and shell corporations in other countries. No war against drug dealers can be won without international cooperation.

An amendment will be offered by Mr. KOSTMAYER to encourage the Panamanian government to join in the international effort against drugs and drug money laundering. I will support that amendment and urge Members to do likewise.

Panama earned a reputation as the money laundering capital of the world during the 1980's. Last fall, the Financial Institutions Subcommittee heard forma Federally-protected witness who worked for the Medellin drug cartel. He told about how easy it was to launder money in Panama. He told the Subcommittee that he dealt with the official in charge of drug interdiction and that the official reported directly to General Noriega.

Last December, American troops went to Panama to remove the regime of Manuel Noriega. Twenty-three young American men died to clean out the rat-infested corrupt government that provided both a pipeline for cocaine and a conduit for cash.

Now the new Panamanian government is dragging its feet on cooperating in tracking down money laundering. Apparently the Panamanian bankers are out to protect their profits from laundering dope money for cocaine killers.

Holding back half the $420 million in U.S. aid until a money laundering information sharing agreement is actualy signed will give the new government a powerful incentive to disregard the bleating of the corrupt bankers.

The responsible governments of the world have repeatedly expressed their concern for the need for a coordinated effort against money laundering. The G–7 Financial Action Task Force on Money Laundering released its report last month, including 40 action recommendations that the governments of the world should implement. In a letter to me on April 19, Treasury Secretary Brady pointed out that the recommendations "will facilitate greater cooperation in international investigations, prosecutions and forfeiture actions."

Recommendation 32 calls for nations "to improve * * * international information exchange relating to suspicious transactions, persons and corporations involved in those transactions."

In effect, the Kostmayer amendment requires Panama to implement this important G–7 Money Laundering Task Force recommendation with the United States. Surely, this is not too much to ask of a country with a previously shameful money laundering record that seeks to receive our aid.

Help fight money laundering by supporting the Kostmayer amendment when it is offered.

Mr. KOSTMAYER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does any Member seek time in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from Pennsylvania [Mr. KOSTMAYER].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 101–489.

AMENDMENT OFFERED BY MR. DREIER OF CALIFORNIA

Mr. DREIER of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DREIER of California: Page 9, line 23, strike out "and"; page 10, line 2, strike the period and insert in lieu thereof "; and"; and after line 2, insert the following:

(C) commends the Endara Government for—

(i) signing a counter-narcotics agreement;

(ii) taking the initiative to establish legal requirements to ensure the availability of currency and other financial transaction information to regulatory and law enforcement authorities; and

(iii) signing the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

(2) UNITED STATES POLICY.—It is the policy of the United States to support the efforts of the Government of Panama to ensure that abuse of Panama's private and public institutions by drug traffickers and money launderers will not again be permitted to occur. To this end, the United States should—

(A) pursue to a prompt conclusion the discussions initiated by the Government of Panama concerning arrangements for information sharing and other law enforcement agreements with a view toward formalizing appropriate arrangements to include—

(i) a mechanism for exchanging adequate records (as defined in section 4702(f)(2) of the International Narcotics Control Act of 1988) on international currency transactions in connection with narcotics investigations and proceedings;

(ii) mutual access to records of financial transactions for purposes of law enforcement investigations; and

(iii) efficient mechanisms for each government to obtain from the other country, in judicially admissible form, bank records and other evidence for use in criminal proceedings;

(B) utilize funds appropriated under this and other Acts to provide appropriate training, materials, and equipment requested by the Government of Panama to facilitate implementation of such agreed arrangements;

(C) utilize funds appropriated pursuant to this and other Acts to provide appropriate training, materials, and equipment requested by the Government of Panama to ensure effective implementation of its recently adopted financial transaction requirements; and

(D) utilize funds appropriated pursuant to this and other Acts to assist the office of the Attorney General of Panama in obtaining appropriate training, materials, and equipment requested by the Government of Panama to ensure effective implementation of its declared policy of prosecuting drug traffickers and money launderers, and seizing their assets.

Page 10, line 3, strike out "(2)" and insert in lieu thereof "(3)"; line 10, strike out "(3)" and insert in lieu thereof "(4)"; page 11, line 3, strike out "(4)" and insert in lieu thereof "(5)"; and page 12, line 5, strike out "(5)" and insert in lieu thereof "(6)".

The CHAIRMAN. Under the rule, the gentleman from California [Mr. DREIER] is recognized for 30 minutes.

Mr. DREIER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to the distinguished gentleman from Florida, the chairman of the full committee.

Mr. FASCELL. Mr. Chairman, we have examined the gentleman's amendment on this side, and we are prepared to accept it.

Mr. DREIER of California. Mr. Chairman, I thank my friend.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to my friend, the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, we also are in accord with the amendment and we support it on this side.

Mr. Chairman, one of the greatest challenges this country faces is the fight against the drugs that are wasting an entire generation of American youth.

That is not an easy challenge. Drugs is a big money business. As long as the money comes easy, America wouldn't be able to get the upper hand on the drug problem.

For too long, Panama has served as a money laundering point for the drug lords. Today, with a democratic government in Panama, we have a chance to close down this illegal operation.

That is why I support the Dreier amendment. It is the best chance we have to get at the source of the drug problem. The Dreier amendment has two advantages: It gets at the root of the problem, yet it recognizes the sovereignty of the Panamanian Government.

The Dreier amendment encourages the newly elected government of Panama to work with American officials to solve the money laundering problem. It includes mechanisms for exchanging information on currency transactions and for facilitating the use of evidence in criminal proceedings.

The Dreier amendment also calls on the administration to use funds in this legislation to provide training, material and equipment that Panama needs to close down the drug traffic.

The Dreier amendment offers the democratic government of Panama a hand, not a hammerlock. It is a constructive way to handle a very difficult problem.

I encourage my colleagues to support this amendment.

Mr. GILMAN. Mr. Chairman, I support the Dreier-Gilman amendment which refines the language in H.R. 4636, the bill before us. Our language is constructive, extending a helping hand to a friend willing to work with us in the war on drugs. It also leaves much of the committee-approved language on money laundering intact and has the support of the administration.

Our amendment encourages our government to work closely with Panamanian officials in formalizing arrangements concerning the exchange of records on currency transactions, and an efficient mechanism for obtaining evidence for use in criminal proceedings.

The Dreier-Gilman amendment also calls upon the administration ot utilize funds in this legislation to provide training, material and equipment to Panama to assist that country in carrying out these agreements designed to end money laundering. We need to do everything possible to help Panama rid itself of money launderers and drug traffickers. This amendment provides the help so desperately needed by the new democratic government of Panama.

Accordingly, I encourage my colleagues to support this amendment.

Mr. DREIER of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DREIER].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 101-489.

AMENDMENT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROOMFIELD: Page 65, beginning on line 11, strike all through page 78, line 11, and insert in lieu thereof the following:

SEC. 501. SHORT TITLE.

This title may be cited as the "El Salvador Peace, Security, Justice, and Democracy Act of 1990".

SEC. 502. STATEMENT OF POLICY.

It shall be the policy of the United States—

(1) to support the Government of El Salvador in order to strengthen democratic institutions and promote economic development, conditions of security, and efforts to achieve a lasting negotiated settlement to the armed conflict in that country;

(2) to support the Government of El Salvador's implementation of free and fair electoral practices as demonstrated by national, local, and municipal elections carried out in that country since 1984;

(3) to support the December 12, 1989, Declaration of San Isidro in which the Central American presidents back the Government of El Salvador in its efforts to find a solution to the Salvadoran conflict by "peaceful and democratic means", call on the Farabundo Marti National Liberation Front (hereinafter in this title referred to as the "FMLN") to "effectively and immediately cease hostilities" and to "reincorporate itself into the process of dialogue already undertaken", and emphatically demand that the FMLN "renounce all forms of violent action that directly or indirectly affects the civilian population";

(4) to support the efforts to achieve an end to hostilities and a lasting negotiated settlement of the armed conflict;

(5) to work with Latin American governments; the Organization of American States, and the United Nations to press the Soviet Union, Nicaragua, Cuba, and other countries to terminate support, both material and logistic, to the FMLN and to use the good offices of such governments and organizations to press the FMLN to negotiate seriously and in good faith with the Government of El Salvador;

(6) to promote greater respect for human rights by both sides in the conflict in El Salvador and to condition United States assistance on the commitment of both sides to investigate thoroughly and hold accountable those funds to be responsible for the murders of prominent Salvadorans, such as Jose Rodriquez Porth, Francisco Guerrero, elected municipal officials, and those murdered at the University of Central America and at San Sebastian among others;

(7) to support the separation of all police functions from the command and control of the armed forces of El Salvador and to reconstitute the police force as a civilian force directly responsible to, and under the control of, a civilian authority;

(8) to support the reorganization of the structure and reduction of the size of the armed forces of El Salvador after the completion of successful negotiations with the FMLN which establish a lasting political settlement to the armed conflict in that country;

(9) to support the reform of the system of justice in El Salvador emphasizing judicial training, court administration, and the revision of the legal code, among other activities, ultimately leading to the establishment of a strong, responsible, independent justice system; and (10) to take those steps necessary to ensure that United States development assistance for El Salvador is administered efficiently and effectively for the purposes for which it was intended.

SEC. 503. CONDITIONS ON MILITARY ASSISTANCE FOR EL SALVADOR.

(a) IN GENERAL.—The President shall ensure that military assistance for El Salvador for fiscal year 1991 is furnished in a manner which fosters demonstrated progress toward strengthening democratic institutions, economic development, and security of that country. To this end, the President in every appropriate instance shall impose conditions, in addition to those specified in subsection (c), on the furnishing of such assistance in order to achieve those goals, including the objectives described in subsection (b)(4).

(b) REPORTS.—Not later than November 1, 1990, and not later than May 1, 1991, the President shall submit to the Congress a detailed report covering the previous 6-month period (April 1 to September 30, 1990, and October 1, 1990, to March 31, 1991, respectively) that—

(1) specifies whether the President has made the determination described in subsection (c)(3);

(2) fully describes the policies of the Government of El Salvador for achieving strengthened democratic institutions, economic development, conditions of security, and a negotiated settlement to the conflict in that country;

(3) reviews comprehensively the factors contributing to the political, economic, and security situation in that country, including such factors as human rights, land reform, the economy of the country, refugees and displaced persons, the military situation, and guerrilla activity; and

(4) includes the President's detailed assessment of the strengths and weaknesses of the policies of the Government of El Salvador in protecting and advancing the human rights, in particular the right to security of person, of all persons in El Salvador during the period covered by the report with respect to each of the following objectives:

(A) An end to the involvement in or support for acts of unlawful violence, secret de-

tention, abduction, torture, and murder by members of military, security, or police forces.

(B) The establishment of an effective judicial system, operating under fair and efficient procedures, in which those charged with crimes are brought to timely justice and private disputes and grievances are resolved on the basis of respect for the rule of law, free from the taint of corruption and intimidation; and in particular, the taking of necessary measures to investigate, and prosecute those responsible for the 8 murders at the University of Central America on November 16, 1989.

(C) Effective freedom of the press and freedom of association, including the enforcement of measures against intimidation of the press and labor and peasant union members and leaders.

(D) Participation by the Government of El Salvador in negotiations with the FMLN, in good faith, for the purpose of achieving an end to hostilities and an equitable political settlement, based upon free and fair elections and conditions which will assure the physical security of all participants before, during, and after those elections.

(E) Full implementation of the land reform program, including the taking of necessary measures against illegal evictions and the furnishing of necessary credits, administrative support, technical assistance, and services to beneficiaries.

(F) In the event of continued hostilities perpetuated by the FMLN to which the Government of El Salvador responds, compliance by the Government of El Salvador with applicable rules of international law, in particular humanitarian principles the protection of civilians.

(c) LIMITATIONS ON MILITARY ASSISTANCE.—Military assistance for fiscal year 1991 may be provided for El Salvador only as follows:

(1) AMOUNT OF ASSISTANCE.—No more than $85,000,000 in such assistance may be provided for El Salvador.

(2) TERMINATION OF ASSISTANCE.—No such assistance shall be obligated for the Government of El Salvador if the President determines that—

(A) that government is declining to participate in good faith in negotiations with the FMLN leading to an end to hostilities and a permanent settlement to the armed conflict;

(B) that government is failing to support an active role for the Secretary General of the United Nations in those negotiations; or

(C) the duly-elected head of that government has been deposed by unconstitutional means, including a military coup or decree.

(3) WITHHOLDING OF ASSISTANCE.—The President shall withhold up to 25 percent of the military assistance funds allocated for El Salvador if he determines, and reports to the Congress pursuant to subsection (b), that—

(A) the Government of El Salvador has not made demonstrated progress in protecting and advancing internationally recognized human rights;

(B) the Government of El Salvador is failing to conduct a thorough and professional investigation into, and prosecution of those responsible for, the eight murders at the University of Central America on November 16, 1989;

(C) the Government of El Salvador is failing to separate all police functions from the command and control of the armed forces of El Salvador and to reconstitute the police force as a civilian force directly responsible to, and under the control of, a civilian authority;

(D) the Government of El Salvador has not taken steps to reform the system of justice aimed at the establishment of a strong, independent, and responsible judicial system; or

(E) upon the successful completion of a negotiated settlement agreement with the FMLN, the Government of El Salvador is failing to reorganize the structure and reduce the size of the armed forces of El Salvador in a manner consistent with such an agreement.

(4) WAIVER BASED ON FMLN CONDUCT.—Paragraphs (2) and (3) shall not apply if the President determines, at any time, and reports to Congress that—

(A) the FMLN is declining to participate in good faith in negotiations for an end to hostilities and a permanent settlement to the armed conflict in El Salvador;

(B) the FMLN is failing to support an active role for the Secretary General of the United Nations in those negotiations;

(C) the FMLN is continuing to acquire or receive lethal military equipment from outside El Salvador;

(D) the FMLN is conducting acts of terrorism and economic sabotage, including attacks on civilians or government officials or violent actions which directly or indirectly affect the civilian population of El Salvador, including attacks on public transport systems of personnel, commercial establishments, telephone communications, or the electrical power system; or

(E) the FMLN is conducting sustained offensive military operations which increase the risk to noncombatants in El Salvador.

(5) FMLN HUMAN RIGHTS ABUSES.—In considering the determination in paragraph (4), the President shall take into account the extent to which the FMLN is conducting a thorough and professional investigation into and is holding accountable those members of the FMLN responsible for human rights abuses and politically motivated crimes in El Salvador, including the murder of prominent Salvadorans, such as Jose Rodriguez Porth, Francisco Guerrero, and elected municipal officials, among others.

(6) CIVILIAN APPROVAL OF MILITARY ASSISTANCE.—To ensure effective and efficient administration of such military assistance and to strengthen internal oversight over the use of such assistance in El Salvador, the President shall require that no military assistance provided for fiscal year 1991 shall be made available for use by the armed forces of El Salvador without the prior approval of the democratically elected President of El Salvador.

(d) FUNDS SUBJECT TO JOINT RESOLUTION.—Funds obligated or available for obligation under this section shall be subject to any joint resolution with respect to a report the President submits pursuant to subsections (b) or (c)(4).

(e) EXPEDITED CONGRESSIONAL REVIEW PROCEDURES.—

(1) DEFINITION OF PRIVILEGED JOINT RESOLUTION.—For purposes of this subsection, the term "privileged joint resolution" means a joint resolution—

(A) which—

(i) in the case of the House of Representatives, is reported by the Committee on Foreign Affairs, and

(ii) in the case of the Senate, is reported by the Committee on Foreign Relations, during the 30-day period beginning on the date of submission of a report described in subsection (b) or (c)(4);

(B) which is being considered during that 30-day period;

(C) which would place conditions or limitations, on both, on expenditures of military assistance funds for El Salvador for fiscal year 1991;

(D) which does not contain any provision which is not related to the conditions and limitations provided for in the joint resolution; and

(E) the title of which is as follows: "Joint resolution relating to military assistance for El Salvador for fiscal year 1991.".

(2) MOTION FOR FLOOR CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) after the day on which a priviledged joint resolution is reported by the Committee on Foreign Affairs or the Committee on Foreign Relations (as the case may be), it shall be in order (even though a previous motion to the same effect has been disagreed to) for the chairman of that committee (or his designee) to move to proceed to the consideration of that joint resolution. In the House of Representatives the motion shall be that the House resolve itself in to the Committee on the Whole House on the State of the Union for the consideration of the joint resolution. The motion may be made in the Senate notwithstanding any rule or precedent of the Senate, including Rule 22. The motion to proceed to the consideration of the joint resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to by a House of Congress, that House shall immediately proceed to the consideration of the joint resolution without intervening motion, order, or other business, and that joint resolution shall remain the unfinished business of the respective House until disposed of.

(3) *Debate time.*—Debate on a privileged joint resolution, and on all debatable motions and appeals in connection therewith (other than amendments made in order in the House of Representatives under paragraph (4) and a motion to recommit in the House under paragraph (7)), shall be limited to not more than 4 hours, which shall be equally divided and controlled by the Chairman and Ranking Minority Member of the committee reporting the joint resolution. A motion further to limit debate is in order and not debatable.

(4) AMENDMENTS IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, it shall be in order to consider amendments to a privileged joint resolution under the five-minute rule in the Committee of the Whole.

(5) AMENDMENTS IN THE SENATE.—Amendments to a privileged joint resolution are not in order in the Senate.

(6) CERTAIN MOTIONS NOT IN ORDER.—A motion to postpone or to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which a privileged joint resolution is agreed to or disagreed to is not in order.

(7) FINAL PASSAGE IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, at the conclusion of debate on a privileged joint resolution and consideration of any amendments to the joint resolution, the Committee on the Whole shall rise and

report the resolution back to the House, and the previous question shall be considered as ordered on the joint resolution, together with any amendments adopted thereto, to final passage without intervening motion except one motion to recommit, with or without instructions.

(8) FINAL PASSAGE IN THE SENATE.—In the Senate, immediately following the conclusion of the debate on a privileged joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

(9) APPEALS FROM DECISION OF THE CHAIR NOT DEBATABLE IN THE SENATE.—Appeals in the Senate from the decisions of the chair relating to the application of the rules of the Senate to the procedure relating to a privileged joint resolution shall be decided without debate.

(10) CONGRESSIONAL RULEMAKING POWERS.—This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a privileged joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitution right of either House to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(f) DEFINITION OF MILITARY ASSISTANCE.—For purposes of this section, the term "military assistance" means assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the foreign military financing program) or assistance with funds under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program).

SEC. 504. ASSISTANCE FOR HUMAN RIGHTS AND DEMOCRATIC INITIATIVES

(a) ADMINISTRATION OF JUSTICE.—

(1) OBJECTIVES.—The President may use funds made available under this subsection to support the programs and activities for El Salvador described in paragraph (2) in order to—

(A) promote increased adherence to internationally recognized human rights, as set forth in the Universal Declaration of Human Rights;

(B) improve the performance of institutions of democracy; and

(C) otherwise promote pluralism in El Salvador.

(2) PROGRAMS AND ACTIVITIES WHICH MAY BE SUPPORTED.—Funds made available under this subsection shall be available to support the following:

(A) Programs and activities to enhance the independence and performance of institutions of democratic governance, including support for judicial, electoral, and legislative processes.

(B) Programs and activities—

(i) to encourage the growth of independent associations by strengthening professional, civic, trade union, business, community, and other organizations, and

(ii) to enhance the organizational and leadership skills of the members of such organizations in order to increase citizen participation in democratic processes.

(C) Programs and activities to increase awareness of internationally recognized human rights (including by increasing the availability of information concerning the status of respect for internationally recognized human rights), improve the effective exercise of those rights, and strengthen respect for the rule of law.

(D) Programs and activities.—

(i) to support victims of abuses of internationally recognized human rights, including the direct provision of legal services, and

(ii) to support organizations and institutions seeking to bring to justice those responsible for perpetrating such abuses.

(E) Programs and activities to support a free and independent press.

(F) Programs and activities—

(i) to provide specialized professional training, scholarships, and exchanges for continuing legal education;

(ii) to promote the role of the bar in judicial selection, enforcement of ethical standards, and legal reform; and

(iii) to increase the availability of legal materials and publications.

(G) Programs and activities to support the revision and modernization of legal codes and procedures, including support for legislative bodies to assist them in accomplishing those ends.

(3) ELIGIBLE RECIPIENTS OF ASSISTANCE.—Assistance under this subsection may be furnished to the Government of El Salvador and to organizations, both public and nongovernmental, including national, regional, and international organizations. A portion of the funds made available to carry out this subsection shall be used for assistance provided to nongovernmental organizations.

(4) PROHIBITION RELATING TO ELECTIONS.—Assistance under this subsection may not be used to influence the outcome of any election.

(5) SUPPORT FOR DEMOCRACY PROGRAM.—The President, through an agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador. The program shall be designed to—

(A) assist and involve all predemocratic sectors in El Salvador in efforts to strengthen civilian control over the armed forces;

(B) establish an effective judicial system;

(C) facilitate the free and open exchange of political views;

(D) provide for monitoring and other activities in support of free and fair elections; and

(E) increase respect for basic civil and human rights.

(6) FUNDING.—To carry out this subsection, there are authorized to be appropriated $10,000,000 for fiscal year 1991 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(b) POLICE TRAINING.—

(1) AUTHORITY.—In order to encourage the separation of the law enforcement forces from the armed forces of El Salvador and to promote the professional development of the security forces of El Salvador, assistance made available under section 503(c) or under paragraph (3) of this subsection may, notwithstanding section 660 of the Foreign Assistance Act of 1961, be provided to El Salvador for fiscal year 1991 for purposes otherwise prohibited by section 660 of that Act; if the following conditions are met:

(A) The training provided with such assistance is provided by United States civilian law enforcement personnel.

(B)(i) The assistance is to be used for the purposes of professional development and training of the security forces of El Salvador in such areas as human rights, civil law, investigative and civilian law enforcement techniques, and urban antiterrorist training.

(ii) Any such assistance that is made available for equipment for these forces is intended to be used for the purchase of such equipment as communication devices, transportation equipment, forensic equipment, crime control and detection equipment, and personal protection gear. No such assistance may be used for the purchase of firearms.

(iii) Clause (ii) does not preclude the provision of consumables and spare parts for existing inventories of firearms.

(C) at least 30 days before obligating such assistance, the President certifies to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate that the Government of El Salvador has made significant progress during the preceding 6 months in eliminating any human rights violations including torture, incommunicado detention, detention of persons solely for the nonviolent expression of their political views, or prolonged detention without trial. Any such certification shall include a full description of the assistance which is proposed to be provided and of the purposes to which it is to be directed.

(2) DEFINITION.—For the purposes of this subsection, the term "civilian law enforcement personnel" means law enforcement personnel who are not members of the United States Armed Forces.

(3) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated $2,000,000 for fiscal year 1991 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; related to the economic support fund).

SEC. 505. SUPPORT FOR NATIONAL RECONCILIATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—In order to promote the process of national reconciliation in El Salvador, there are authorized to be appropriated $100,000,000 for fiscal year 1991 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) for use in accordance with this section.

(b) USE OF FUNDS.—

(1) ESCROW ACCOUNT.—Funds authorized under this section shall be placed in an escrow account subject to release only if the President determines and reports to Congress that an agreement between the Government of El Salvador and the FMLN for a political settlement to the conflict has been achieved.

(2) SUPPORT FOR RECONCILIATION PROCESS.—If the President makes the determination described in paragraph (1), funds authorized by this section shall be used to support the national reconciliation process, including programs—

(A) allowing for the monitoring and verification of the provisions of the agreement, including support for the involvement of the United Nations, the Organization of American States, and other appropriate international organizations;

(B) facilitating the demobilization, repatriation and relocation of FMLN and furthering their reintegration into Salvadoran civilian society;

(C) providing civilian retraining for members of the Salvadoran Armed Forces; and

(D) supporting the economic reconstruction of El Salvador necessary as a result of the war.

The CHAIRMAN. The gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 minutes in behalf of his amendment, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. BROOMFIELD].

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

Mr. Chairman, the amendment before the House is a bipartisan alternative to the Studds amendment contained in title V of H.R. 4636. I wish to thank the gentlelady from Maryland [Mrs. BYRON] for her work on behalf of the Broomfield-Byron amendment.

Our amendment is a measured and balanced approach to the situation in El Salvador. The amendment contains incentives for the democratically elected government to pursue necessary reforms. The amendment also contains disincentives for the FMLN to continue their campaign of terrorism and murder.

Our amendment requires that the President withhold up to 25 percent of military assistance unless the Government of El Salvador takes certain actions. This incentive for positive change is completely absent from the Studds and Moakley approach.

The Broomfield-Byron amendment would waive withholding requirements if the FMLN continues to engage in the terrorist conduct which has been denounced by the Central American Presidents as recently as last December.

Our amendment recognizes the need for consolidation of democracy in El Salvador but does not reward the FMLN for undertaking their November offensive, and does not undermine the peace negotiations that began last week.

There are nine major differences between our amendment and the Studds language in title V of H.R. 4636.

First, Broomfield-Byron has clear policy language supporting democratic reforms and the Central American peace process. Title V does not.

Second, Broomfield-Byron does not punitively slash fiscal year 1990 funds which have already been authorized and appropriated by bipartisan majorities in Congress.

Third, our conditions on the government of El Salvador create incentives for crucial changes, including the separation of the police from the military, judicial reform, and the reorganization of the military. Title V is silent on these key issues.

Fourth, our conditions on the FMLN include real accountability for terrorist actions, including assassinations, economic sabotage and violent killings of civilians. Title V is silent on these issues and would waive withholding only in the most extreme cases on FMLN footdragging.

Fifth, our amendment authorizes $10 million for democratic initiatives, including the administration of Justice program and the police training program which are critical for "civilianizing" the security forces and reforming the judicial process.

Sixth, our amendment requires that all military assistance be channeled through the office of the democratically-elected President. Title V contains no such requirement.

Seventh, our amendment authorizes $100 million in escrow for national reconciliation programs in the event a negotiated settlement is reached. Title V offers no incentives for national reconciliation.

Eighth, our reporting requirements extend far beyond title V, to include the status of land reform, judicial reform and human rights compliance by both sides of the conflict. The reports required by title V are limited in scope and ignore these key issues.

Finally, our amendment provides for more Congressional review than title V by subjecting any determinations regarding FMLN conduct to Congressioal review under expedited procedures. The expedited procedures in title V are expedited in name only; our amendment corrects those flaws.

Frankly, there is no reason for us to be debating this issue on the Floor today. The Secretary of State has offered repeatedly to work toward a bipartisan agreement on United States policy on El Salvador. Unfortunately, instead of pursuing a bipartisan policy, we are pursuing partisan politics.

I hope the House will choose the bipartisan course and endorse the Broomfield-Byron amendment.

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

Mr. HAMILTON. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Indiana [Mr. HAMILTON] is recognized for 30 minutes.

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

Mr. Chairman, I rise in opposition to the Broomfield substitute for the El Salvador provisions in H.R. 4636, and in support of the substitute that will be offered later by Congressmen MOAKLEY and MURTHA.

I support the Moakley-Murtha substitute's proposal to reduce military assistance to El Salvador because our present 10-year policy has not worked, and will not work.

El Salvador's decade-long conflict has taken 70,000 lives, uprooted one-fourth of its population, and left its economy in ruin.

Despite some $4 billion in U.S. assistance over the past 10 years, the Salvadoran Government has made little progress in: halting or investigating killings and abuses by security forces; addressing the social and economic roots of the conflict; or conducting negotiations to end the war.

No one can be satisfied with this record. Surely it is time to reject our failed policy and try a new approach.

TWO PROPOSALS

The proposals before us require us to choose between two fundamentally different approaches in El Salvador: The Moakley-Murtha substitute calls for an immediate 50-percent reduction in military assistance. Subsequent changes in assistance would depend upon progress on negotiations and human rights; and the Broomfield substitute would allow full military assistance to flow at this time. If the Salvadoran Government fails to make progress on human rights and reform, up to 25 percent of our assistance could be withheld later on.

The two proposals would send very different up-front signals to El Salvador.

MOAKLEY-MURTHA SUBSTITUTE

Mr. Chairman, the Moakley-Murtha proposal signals a departure from the policies of the past 10 years. Its cut in military assistance would get the attention of those in charge in El Salvador. It would convey to both sides our seriousness about a negotiated settlement and an end to human rights abuses. And it would not limit the Salvadoran Government's ability to protect itself or the civilian population.

Supporting the Salvadoran Government and armed forces with virtually unconditional aid has not worked. The government has believed that no matter what it did, our check would always be in the mail.

The immediate 50-percent cut in military assistance called for in the Moakley-Murtha substitute is a strong but reasonable response to the record of the Salvadoran armed forces over the past decade. For the first time, it would back up our stated policy with action.

The message of the Moakley-Murtha substitute is that: Both sides must stop fighting now, and start negotiating seriously; the United States will not tolerate a government that has failed during the past decade to convict a single ranking military officer for human rights crimes; and the level of our assistance will depend upon the ability of the government and the FMLN to halt human rights abuses and to pursue a negotiated settlement.

In short, the Moakley-Murtha substitute will strengthen the hand of those—on both sides—who want to negotiate.

BROOMFIELD SUBSTITUTE

The Broomfield substitute would send a message of "business as usual" to El Salvador. It would signal the continuation of current policy. It would say that nothing that happens in El Salvador will affect the level of U.S. assistance, but may only bring warnings of possible consequences. These warnings have long since lost their punch.

The substitute would give the Salvadoran Government 6 more months to clean up its act. The conditions are the same we have demanded for the past 10 years. Why should we expect the Salvadoran Government and armed forces would be willing to do in 6 months what they have not done in 10 years?

The Broomfield substitute does not change present policy in any substantial way. Enacting it would mean continuing a policy that has failed despite a 10-year trial and more than $4 billion in assistance.

ARGUMENTS AGAINST THE MOAKLEY-MURTHA SUBSTITUTE: RESPONSES

There are three major objections to a cut in military assistance at this time.

NEGOTIATIONS

First, supporters of the Broomfield substitute say that a cut in military assistance will upset the new U.N.-mediated negotiations between the Salvadoran Government and the FMLN.

On the contrary, the Moakley-Murtha proposal will improve the prospects for negotiations because it creates strong incentives for both sides to negotiate in good faith and avoid further armed conflict: If the government negotiates seriously and makes progress on human rights, it will continue to receive a substantial quantity of military assistance in fiscal years 1900 and 1991; if the FMLN fails to negotiate seriously, takes steps to improve its military position, or attacks civilians, full assistance to the government will be resumed; and if the FMLN does none of these things, the Salvadoran Government will not need the military assistance that is withheld.

The Moakley-Murtha substitute starts from the view that a military solution to the conflict is not possible, and that a negotiated settlement is in the interest of all Salvadorans. This substitute is tough on both sides. It uses the level of aid to support U.S. policy. It uses real carrots and real sticks to increase the interest of both sides in successful negotiations.

PUNITIVENESS

Second, supporters of the Broomfield substitute say that the Moakley-Murtha proposal's up-front cut in military assistance would be punitive. They say Salvadoran authorities should be given a chance to make progress on human rights, reform, and negotiations. They argue that a cut unfairly punishes all Salvadorans for the misdeeds of a few.

The Moakley-Murtha proposal supports those Salvadorans who want to end the war. It encourages negotiations. This is not punitive; rather it opens the door to a political solution. Could anything be more punitive to the people of El Salvador than a continuation of their present agony?

We have given the Salvadoran Government many chances over many years. It has failed to deliver. U.S. assistance is not an entitlement program. We are under no obligation to continue supporting governments that consistently ignore our concerns.

We should also keep in mind that progress on human rights and negotiations will help, not hurt, the Salvadoran Government. Such progress will undermine, not strengthen, the FMLN.

ABANDONING EL SALVADOR

Finally, proponents of the Broomfield substitute say that if we reduce military assistance, we will abandon El Salvador.

The provisions of the Moakley-Murtha substitute do not endanger the government of El Salvador: So long as the FMLN remains at the bargaining table, does not conduct offensive operations or attack civilians, and does not receive significant quantities of arms, the Salvadoran government will continue to receive all the military assistance it will need; if the FMLN threat grows, full military assistance can be restored; and the current military assistance pipeline for El Salvador totaled more than $100 million at the end of April. These unspent funds are ample to defend against any threat.

CONCLUSION

Mr. Chairman, a foreign assistance program that never changes, even when its objectives are not achieved, eventually loses its ability to influence events. This describes our policy toward El Salvador over the past decade.

We have consistently provided high levels of military and economic assistance. We have said that the continuation of this assistance depends upon demonstrated progress in a number of areas.

When progress did come, we repeated the conditions, but allowed assistance to flow.

Still no progress.

We have been very patient, but our message has not gotten through to those who hold power in El Salvador.

Our bluff has been called. It is time to change our policy. We want to see a negotiated settlement and an end to human rights abuses. The Moakley-Murtha substitute sends that clear and unambiguous message to El Salvador.

The Broomfield substitute does just the opposite. It says steady as you go. Continue current policy. Don't change a thing.

I urge my colleagues to vote now against the Broomfield substitute and to support the Moakley-Murtha substitute.

□ 1810

The CHAIRMAN. The gentleman from Indiana [Mr. HAMILTON] has consumed 10 minutes and has 20 minutes remaining.

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

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, if you truly want to have the power of the Armed Forces of El Salvador subordinated to the control of the elected civilian government, you must support the Broomfield-Byron amendment.

The Broomfield-Byron amendment mandates the separation of the police forces from the army, requires the reduction and reorganization of the Armed Forces following a negotiated settlement to the armed conflict and requires all military aid to be approved by the civilian President.

The Studds language is silent on these three objectives, and its approach offers no incentive for the military to submit to civilian authority.

The Studds language punishes a democratically-elected government and rewards Marxist Guerrilla terrorists.

The Studds language forces the United States to cut in half its commitment to a valued ally which has carried out Democratic elections that have unequivocally expressed the will of the Salvadoran people. Salvadorans have elected Democratic Presidents for the first time in decades and carried out a peaceful transition from the party in power to the opposition for the first time in its history. By the Studds language, we punish Democratic institutions and reward terrorism by the FMLN guerrillas.

While we all condemn the brutal slayings of the six Jesuit priests and two others last November, the number of innocent Salvadorans killed as a result of the FMLN guerrilla offensive last fall was much greater than those eight at the university. The cause of human rights in El Salvador will not be enhanced by making the Salvadoran military feel less secure by cutting their aid in half. We all certainly expect justice in the Jesuit murders, but we also expect justice for all Salvadorans who freely elected a Democratic government and rejected the terrorist tactics of the FMLN guerrillas.

I urge you to support the Broomfield-Byron amendment.

Mr. HAMILTON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. LEVINE], a member of the committee.

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the Broomfield amendment and in support of the Murtha-Moakley amendment.

Mr. Chairman, for the past 10 years the United States has provided nearly $4 billion in foreign assistance to El Salvador. The purpose for this assistance is to promote democracy and encourage human rights in this small agrarian country of roughly 5 million people. Unfortunately, this foreign assistance has not brought the reforms I consider mandatory for El Salvador to break from its long history of repression and violence. It is for this reason I am urging my colleagues to support this 50 percent reduction of military assistance to the Government of El Salvador. The amendment will provide the necessary leverage that I believe will bring about productive negotiations, and an end to the violence. This legislation was carefully constructed to provide incentives and disincentives to compel both sides to negotiate in good faith, and remain at the bargaining table until an agreement is reached. This policy is not the abandonment of an ally, but rather a long-overdue commitment to working toward a peaceful resolution of this civil war.

I am pleased that the Secretary General of the United Nations will oversee peace negotiations between the Salvadoran Government and the FMLN, and believe that this legislation will further encourage a peaceful settlement to the 10-year-old war. I recognize that many obstacles exist between the Government of El Salvador and the FMLN, both the reforming of the Salvadoran military and disarming the FMLN pose significant problems. However, these obstacles are not insurmountable. If the United States commitment to ending the war is to be effective, American aid must be conditioned. We in the Congress should take advantage of this historic opportunity to reunify Salvadoran society, because if we do not, the situation in El Salvador is likely to deteriorate. The United States must do everything in its power to bring about a peaceful conclusion to the civil war in El Salvador, and I encourage my colleagues to support this amendment.

Mr. LEVINE of California. Mr. Chairman, I rise today in strong opposition to the Broomfield substitute amendment and in support of the Moakley-Murtha substitute.

For 10 years, Congress has pleaded, cajoled, and threatened aid cutoffs to encourage human rights progress in El Salvador. The Broomfield amendment is yet another one of these empty exhortations, and not a very powerful one at that.

It is totally devoid of substantive effect on U.S. aid to the Salvadoran military. It makes no change in U.S. policy whatsoever. If anything, it will serve only to reassure the officer corps that it can continue its barbaric human rights abuses with impunity.

For 10 years, this has essentially been our message as we have permitted military aid to proceed unimpeded. Yet, the Salvadoran military has not heard, or has chosen not to believe, our threats, pleas, and exhortations. It has repeatedly called our bluffs, and we have never restricted aid.

No wonder, then, that the Salvadoran military now believes it has been given carte blanche to murder and brutalize anyone in El Salvador who disagrees with its policies. The vicious murder of Father Ellacuria and his colleagues last November tragically illustrates this view.

Clearly, those reponsible for this atrocity assumed business would proceed as it always has in the past. Indeed, Mr. Chairman, the Broomfield amendment would give these murderers precisely the solace they are seeking.

The speaker's task force on El Salvador, of which I am a member, released it's interim report on the Jesuit slayings several weeks ago. I urge my colleagues to review the findings of this report if they are considering casting their vote for the Broomfield amendment.

The report clearly describes the complete lack of remorse or moral condemnation within the Salvadoran military for the murder of the priests. it identifies the Salvadoran justice system as an oxymoron—neither systematic, nor just. It suggests the strong possibility that no arrests whatsoever would have been made had not an American officer come forward with confidential information that had been divulged to him privately. It condemns the failure of the investigation to make obvious inquiries of senior military officials. It concludes that it is increasingly unlikely that justice will be done in this case.

At a minimum, Members who think they support the Broomfield amendment should read pages 18-19 of the El Salvador Task Force Report, in which the night of the murders is recreated, and reflect upon the last decade of U.S. military support, training and assistance which has gone to support the very battalion responsible for these cold-blooded assassinations.

The central and most inescapable conclusion of the report is that these murders were not an isolated incident. I quote from the report:

We are convinced that the military's contribution to the problems of human rights and a paralyzed judicial system are not caused by a few renegade officers; they reside at the heart of the armed forces as an institution. Decades of power, tempered only by the need to maintain a working alliance with wealthy landowners and businessmen, have created an upper echelon within the armed forces that too often finds deference to civilian authority neither necessary nor desirable . . . as a result, the armed forces remain unwilling to police themselves, and only accept the right of other to do so when enormous pressure is applied.

The Broomfield amendment doesn't apply any pressure at all. Not only does it not tighten up the inconsequential certification requirements in existing law, it actually makes it even less likely an aid cut would ever be considered by making such consideration entirely dependent on FMLN actions.

The Broomfield amendment expresses laudable concern for the indirect effect FMLN military activities might have on civilians, but shows a shocking disregard for the civilian impact of murdering clergy, rule without law, and the violation of basic human rights by the military in El Salvador.

The Moakley-Murtha alternative changes American policy—appropriately expressing American outrage over the tragic lack of progress on human rights and judicial reform. The committee legislation is already a compromise. A number of us and a number of our constituents would prefer tougher provisions.

Most importantly, the language in the bill will support negotiations under way and will encourage both sides to stay at the negotiating table and make a sincere effort to achieve national reconciliation peacefully.

A vote for peace in El Salvador is a vote against Broomfield and for Moakley-Murtha.

□ 1820

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I have ruminated over this issue for the last week. It is an extremely difficult issue and one which I have considered with close scrutiny equal to any measure that has come before us during the 101st Congress.

The civil war in El Salvador has tragically killed 70,000 people and has ripped an already poor country to shreds. The FMLN has used terrorist tactics and at times indiscriminately violent methods to inflict an extraordinary amount of chaos and suffering on the Salvadoran people. On the other hand, the extreme right in El Salvador continues to perpetrate acts of barbarism. The most recent example is the killing of the Jesuit priests.

It is of utmost importance that we send a strong signal to the government of El Salvador, but I do not believe the language currently in the bill is appropriate, nor do I feel it will help to achieve the goal of placing a moratori-

um on the violence that plagues the beleaguered nation of El Salvador.

The Broomfield substitute seeks important objectives that the current language fails to address:

The Broomfield amendment: seeks to separate the police from the military; serves to improve the administration of the justice system; is conditioned upon the reorganization and reduction of the size of the Salvadoran armed forces if a settlement is reached; it requires all military aid to be approved by the Salvadoran President; and establishes a fund for reconciliation, reintegration, and reconstruction following a negotiated settlement.

The current language would cut off military assistance just as the Salvadoran government has agreed to participate in negotiations with the FMLN. The conditions set forth in the bill would send the wrong signals at the wrong time, undermining the peace initiatives now underway.

Mr. Chairman, I want to commend the gentleman from Michigan, the distinguished ranking Republican on the Committee on Foreign Affairs, Mr. BROOMFIELD for his extensive work on this difficult issue. I know he shares my concerns for the human rights violations in El Salvador, and I believe his measure will help to improve the quality of life of the Salvadoran people.

Mr. HAMILTON. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. SOLARZ], a member of the committee.

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for yielding me this time. Today's debate has illustrated, I think, the existence of a widespread feeling on both sides of the aisle that our policy toward El Salvador is not working, and that the time has come for a new approach in an effort to bring the killings to an end, and get the kind of negotiations under way which provide the only real hope for a lasting solution to the problem of El Salvador.

We have before Members this evening, two different approaches to the achievement of that objective. One is embodied by the substitute offered by the gentleman from Michigan [Mr. BROOMFIELD]. The other comes in the form of a substitute offered by the gentleman from Massachusetts [Mr. MOAKLEY] and the gentleman from Pennsylvania [Mr. MURTHA]. Both substitutes, in my judgment, represent an improvement over existing policy.

However, for a variety of reasons, I believe that the Murtha-Moakley substitute is substantially more desirable and far more likely to achieve our objectives than the Broomfield substitute. There are, it seems to me three significant and fundamental differences between these two approaches.

The Murtha-Moakley approach would apply to both the 1990 and 1991 fiscal years. The Broomfield substitute, by comparison, only takes effect in the 1991 fiscal year. Now, I would submit that if a new policy makes sense on October 1, 1990, when the next fiscal year begins, then it surely makes sense on June 1, 1990, when this legislation will be enacted into law. If it does not make sense on June 1, then it should not make sense on October 1. In other words, if we need a new approach to El Salvador, it ought to take effect immediately, rather than postponing its effect until the beginning of the next fiscal year.

Second, the Murtha-Moakley amendment would cut off all aid, or at least all military assistance to the Government of El Salvador if they are not pursuing the investigation into the murder of the Jesuits, or if there is not a significant improvement in the human rights performance of the security forces.

Under the Broomfield substitute, by comparison, if the Government is not pursuing the case of the Jesuits, or if its security forces have once again gone on a rampage, the Government would still be eligible to receive up to 75 percent of the aid they are slated to get, which means that even if the Government walks away from the investigation of the Jesuits, even if the security forces go out and kill another 5 Jesuits, or 50 Jesuits, or go back to killing 1,000 innocent people a month as they were in the beginning of the 1980's, we would still be providing them with over $63 million in military assistance a year.

□ 1830

Mr. Chairman, I would submit that after all of the killing in El Salvador the time for us has come to say to the Government of El Salvador, "If you don't pursue the investigation of the killing of the Jesuits, if you don't bring your security forces under control, we are not going to give you any more military assistance."

Finally, the Murtha-Moakley substitute provides real incentives to both the Government and the FMLN to stop the killing and begin the process of negotiations, whereas the Broomfield substitute, while it purports to offer incentives to both, really offers only limited incentives to the Government and no real incentives whatsoever to the FMLN to begin the process of negotiations. To the FMLN the Broomfield substitute says that only if the Government refuses to negotiate will we refrain from restoring the full amount of aid promised to the Government if they agree to negotiate themselves. But what good does it do for the FMLN to demonstrate a willingness to negotiate in good faith if the Government is not willing to negotiate in good faith?

We are not playing games here. We are trying to get both sides to the negotiating table, and that is exactly what the Murtha-Moakley substitute does. It says to the Government, "If you are not willing to negotiate, you don't get any military assistance." It says to the guerrillas, If you are willing to negotiate in good faith and meet the other conditions in this legislation, we will then reduce by 50 percent the level of military assistance the Government would otherwise receive." That is a real incentive to both sides.

So, Mr. Chairman, I urge rejection of the Broomfield substitute, however well-intended it may be, and approval of the Murtha-Moakley substitute.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I really do not understand the last gentleman who spoke. He said the Government will not negotiate. They have been negotiating and negotiating until they are blue in the face. As a matter of fact, they were engaged in negotiations while the FMLN was planning and plotting its uprising, its bloody insurgency in San Salvador last November 11.

When I think of the distinguished sponsorship of this amendment—and I am speaking not of the studds amendment, because I assume that is by the boards and we are beyond that and we are talking about the Moakley-Murtha amendment—when I think of the distinguished sponsorship of that amendment, I am reminded of an old Italian saying: "Though you may dress the shepherd in silk, he will still smell of the goat." This amendment smells of the goat, if I may say it, although I am not an old Italian.

The difficulty of getting any money for the Government of El Salvador is similar to solving Rubik's cube; you just cannot do it. It is there on the surface, but you cannot get to it.

The gentleman from Indiana says there can be no military solution. Well, six elections have been held. Democracy is not a military solution. Democracy is a process. There have been six elections in El Salvador. Our policy must be working pretty well with these elections, with two of these elections being presidential elections, and the FMLN just does not hack it. They got about 4 percent of the popular support. They spend their time, while democracy is attempting to exercise itself, shooting people who want to go to vote, threatening people, and intimidating people.

You negotiate from strength. This amendment forces the elected constitutional government to negotiate from weakness. That is a sure-fire scenario for a bloody civil war. We should bring the killing to an end? We cannot bring

the killing to an end by disarming one side while the other side continues to be armed. You provide no incentives at all to the FMLN to stop its insurgency.

The harsh restrictions on military aid are only waived if the survival of the Government is jeopardized.

We have to read this amendment. This guarantees incentives to the FMLN to prolong the insurgency, and it guarantees that any help to the Government will come too late if it ever comes.

Now, we talk about neither side being blameless as though there is some moral symmetry. I would say that every killing by the FMLN has been authorized by the FMLN. But no killing by the right-wing death squads was authorized by Duarte to whom your support was mighty limpwristed, if you will pardon the expression, and your support to Mr. Cristiani is much in the same way. Cristiani did not authorize the murders of the Jesuits. That is the last thing he would want.

There are sociopathic people around, even on the West Bank, as there are in El Salvador, and we do not ruin a government and cut the legs out from under them because of the aberrational acts of a group.

Let me explain what we are doing here. Perception is everything, and the perception is to undercut the elected government, provide incentives to the FMLN, prolong the insurgency, while they nibble around the edges, and keep it going and give them a victory they could not win at the negotiating table and that, God knows, they cannot win in the election booth. And for what? What kind of a friend are we? You hold Mrs. Chamorro hostage until you ram this piece of work down the President's throat, you hold Panama hostage until you ram this piece of work down the President's throat, and you call yourselves reliable allies? God save us from such help.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the distinguished gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman very much for yielding time to me.

Mr. Chairman, this is a very important time in the history of El Salvador and for the people of that war-torn nation. Both the Government and the FMLN have agreed to negotiations under the auspices of the United Nations, to try to bring the civil war that has so anguished that country to an end. Any action we take at this critical time must be deliberate, must be balanced, and must bring the same pressures to bear on both sides.

I rise in support of the Broomfield-Byron amendment because it holds both sides to higher standards than does the bill or Studds-Moakley amendment. Both the Studds-Moakley amendment and the Broomfield-Byron amendment require both sides to negotiate in good faith and require both sides to accept the role of the United Nations. Both amendments would waive any limits on aid if there is a military coup, and both amendments require that El Salvador continue to make progress on the Jesuit case.

The Broomfield-Byron amendment, however, requires that the Salvadoran Government make progress on three critical fronts on which the Studds-Moakley amendment is silent. The Studds-Moakley amendment does not require that there be progress on judicial reform, does not require that there be progress separating the police powers from the military powers, and does not require that there be progress on military reorganization and force reduction. It is only the Broomfield-Byron amendment that requires progress on these fronts.

It is the Broomfield-Byron amendment that takes a broader view and sets higher standards for the Salvadoran Government, and when we look at what has happened in Nicaragua after the elections, we can see how desperately important it is that these young countries reduce their military, separate the police power, and establish a strong judiciary. So it is only the Broomfield-Byron amendment that sets the high standards that will serve peace and human rights in El Salvador in the future.

Let us look at how the two amendments treat the FMLN. Why is it that Studds-Moakley is silent on economic sabotage? Blowing up powerplants, destroying roads, and not allowing people to market their crops are activities that are every bit as warlike and every bit as destructive of people's lives as many other acts of violence. Yet the Studds-Moakley amendment would allow those to go on without penalty during this peace period of negotiations.

We must remember that it was during the period of negotiations, when both sides were at the table, that the FMLN staged the most aggressive, the bloodiest, and the most brutal offensive of this civil war. We will recall that it was during a period of negotiations that the FMLN forward-deployed tons and tons of armaments in civilian neighborhoods, in the cities where the war had never been fought, where people in the past had been sheltered.

1840

So, Mr. Chairman, why is it that the Studds-Moakley amendment is silent on penalties for economic sabotage, and look at the policy that the Studds amendment takes toward violence. What it says is that "it's O.K., folks; a little violence, just not a lot."

Mr. Chairman, we have been through that in the past. They are very good at a little violence, just not a lot.

The Studds-Moakley amendment says, "If your violence is not targeted at civilians, it's OK." But how about the car bomb that was meant to get the general, but got 45 mothers, kids, adults, civilians, innocent people at the same time?

Lastly, Mr. Chairman, what about this business of arms? Why is it OK. to import a few new arms, just not a lot? Why is it OK for the FMLN to engage themselves in offensives but not substantial offensives? Are little skirmishes which perpetuate the terror and intimidation of the civil war during negotiations OK? Are little actions that terrorize, little ways that paralyze a society, little actions that erode the trust that negotiations depend on, OK. While one is supposed to be committed to negotiating peace? That is OK?

Mr. Chairman, the Broomfield-Byron amendment prevents that kind of violence, punishes economic sabotage, holds the FMLN to the kinds of high standards, as well as the El Salvadoran Government to the high standards that are essential, if there is to be trust; successful negotiations, peace and, ultimately, a government that supports human rights and economic opportunity in El Salvador.

Mr. HAMILTON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan [Mr. BROOMFIELD].

Mr. Chairman, the United States may finally be awakening from a 40-year nightmare—a national paroxysm of paranoia. The American people were told that Communists in Russia, in China and Eastern Europe, in Central America, and even in the State Department threatened our very existence. I didn't buy that line 10 years ago, and I certainly don't buy it today. I have more faith in the strength and vitality of our Nation than that.

It was only a few short years ago that the President of the United States tried to heap more fuel on the fires of fear by describing the menace of Communist hordes from Nicaragua sweeping through Mexico and across our borders. The citizens of Harlingen, TX, were advised that the most formidable threat to civilization since Attila the Hun lay in wait a mere day's drive south of their city limits.

Our policy in El Salvador is a relic from those years of fear. It's time we discarded the relic.

In El Salvador, the United States is supporting a corrupt oligarchy whose only ambition is the maintenance of power through terror. We hear about the most notorious murders—Archbishop Romero, the American churchwomen,

human rights leader Herbert Anaya, and the six Jesuit priests. But for most of the American people, the tens of thousands of Salvadorans killed and tortured by the military death squads are faceless statistics, at best.

Let us not mince words—the ARENA party in El Salvador is a fascist political movement—a movement whose credo is corruption, murder, and fear. Our hands are stained by the blood of tens of thousands of poor peasants and workers whose only crime was to aspire to a better life. We cannot begin to remove that spot by mere washing. A little water will not clear the stain of this body's support for the deeds of the army death squads.

But we can begin to make amends here today by supporting, for once, the aspirations of the common people of El Salvador by supporting peace and dialog. Oppose Broomfield and support the Moakley-Murtha substitute and cut aid to the Government of El Salvador.

Mr. OBEY. Mr. Chairman, reference has been made to partisanship and bipartisanship. I think I have demonstrated a great deal of cooperation with the administration in moving their Panama and Nicaragua supplemental forward.

However, Mr. Chairman, on this occasion I support the committee bill. I support the substitute of the gentleman from Massachusetts [Mr. MOAKLEY]. I oppose the amendment of the gentleman from Michigan [Mr. BROOMFIELD] because, after 10 years, it is time to say to the pathological thugs who have systematically slaughtered bishops, priests, and nuns, and any other civilians who call for decency, that we have had enough.

The amendment of the gentleman from Michigan [Mr. BROOMFIELD] is very simply a wimpout. It sends money without a message.

The amendment of the gentleman from Massachusetts [Mr. MOAKLEY] sends the right message because it cuts the military aid by 50 percent contingent only upon the behavior of the FMLN. It sends the following message; "Reform, or, boy, you're going to be on your own," and that is the message we ought to send.

Mr. Chairman, I will never forget a conversation which I had with a businessman in Salvador, a very important businessman who served as an adviser to President Duarte. When I was in Salvador, he said to me one evening, "I don't know what things are like in your Rotary Club, but in my Rotary Club, when I sit down, I see across the table two people who took a contract out on me." He said, "That's what our Rotary Club meetings are like."

Mr. Chairman, I suggest to my colleagues that is largely what Salvadoran society is like, and we are not going to help change it if we continue to send money without a message.

Mr. Chairman, the message ought to be, "Yes, we understand President Cristiani is a fine man, just as President Duarte was a fine man, but he will never gain control of his own society and his own military unless we send the message that the money faucet is going to stop," and this is the way we start that message today.

The FMLN in my judgment cannot defeat the Salvadoran Government or society. Only Salvador, in their behavior, only the misguided action of the Salvadoran elite, can do that.

We have a responsibility to people that we have tried to help for the last 10 years to be effective in the messages we are sending. I cannot think of a more ineffective message than to pass the amendment of the gentleman from Michigan [Mr. BROOMFIELD], and I urge my colleagues to support the committee bill and the substitute of the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Chairman, we are having this debate at the very time when the press is reporting good progress on talks in Caracas between the warring parties in Salvador. I think that those steps are going to play out if we give them a chance.

However, Mr. Chairman, there is a problem, and the problem was referred to earlier today on this floor, and it will continue to be referred to because it is a real problem, and the problem is this: that the FMLN is watching very, very closely what we are doing in the U.S. Congress with regard to aid. We are sending a signal by having this debate, and, when we sent that signal after the foreign affairs vote a few weeks ago, we had a wave of terrorism throughout the country of El Salvador. In fact, the FMLN in a communique on their attack on San Salvador specifically referred to the 50-percent cut that the Studds amendment called for.

So, think for a moment. If we are going to send a signal by failing to pass the amendment of the gentleman from Michigan [Mr. BROOMFIELD], the Broomfield version of how to approach this, if we fail to send that, we possibly run the risk of the FMLN misreading our intentions again and starting another wave of violence, as they have said they will do if they are not sure that the Cristiani government can deliver what they are asking at the negotiating table.

Mr. Chairman, suppose we lose the Cristiani government? What have we lost? We have lost a democratic government in a neighboring country, a duly elected, democratic government. What have we gained? We have gained chaos.

We seek peace and democracy for the people of Salvador. We do not seek chaos.

Consequently, Mr. Chairman, I think it is extremely important for us to remember that our vote here will be reported in more than the Washington Post. It will be reported among the players in the Salvador negotiations. It will also be reported downtown, and we have a message from downtown that this Studds language is not acceptable to the administration and that it will lead to a veto, and one has to ask the question: How then have we served the emerging democracies we seek to serve if we have put ourselves in stalemate with regard to the assistance so desperately needed?

Mr. Chairman, I believe there is a solution out there. I believe that we are on the path to negotiation, and I believe those negotiations have a better chance of coming to a desirable solution if there is relative harmony in Salvador during that negotiations process, and the way to achieve that relative harmony is to pass the version of the gentleman from Michigan [Mr. BROOMFIELD] that we are discussing. It provides tough conditions on the FMLN including terrorist attacks, assassination, economic sabotage, and so forth. It provides for 10 million for democratic initiatives and successful administration of justice, other human rights, other administration of justice provisions, and civilian control over the military.

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

Mr. HAMILTON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Chairman, the vote on the amendment of the gentleman from Michigan [Mr. BROOMFIELD] should be no. It has one defect that will not withhold money, military assistance. We are continuing to delude ourselves if we think our military aid is the magic that will tame the Salvadoran military. Our aid did not protect the six Jesuit priests. Our aid cannot even insure that their killers are brought to justice.

When the Moakley task force traveled to El Salvador in February, I visited a village in Chalatenango in which four children had just been killed by the Salvadoran military—with rockets and shrapnel stamped with the letters "USA." Just 3 months after the slaying of the priests—after worldwide condemnation of the Salvadoran military, their behavior did not change one bit.

For 10 years, we have seen these acts of terrorism go unpunished again and again—and yet we continue to throw our money at the Salvadoran military responsible for them. I cannot accept this.

The administration thinks that we should be patient and stay the course—that our aid will improve the human rights situation. But we have been patient; 70,000 Salvadorans have died for patience. We must tell the

Salvadoran military our patience has run out. Out outrage will not be tempered by idle promises that we have seen broken again and again.

Some say this is not the time to cut aid—that we should use it as the carrot to ensure the Salvadoran Government continues negotiations. But our aid is no longer an enticement to change. It is an endorsement of brutality and terrorism. Our silence is an endorsement as well, and I urge my colleagues to end this complicity and support the 50 percent cut in aid.

□ 1850

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I thank the distinguished ranking member for yielding me this time.

You know, at the end of my statement during general debate, Mr. Chairman, I said what some people thought might be slightly ironic, that while we have seen the Soviet Union, we have seen Nicaragua, we have seen Cuba cut off aid to the FMLN, it seems that they are looking to the United States Congress for their support now.

President Cristiani said just yesterday that it is very apparent that any kind of signal that the FMLN would receive from the U.S. Congress would in fact encourage the further attrocities which we saw last November and have been seeing recently.

There is a lot of talk about the degree of military assistance and how horrendous it is. Well, since 1985, Mr. Chairman, we have seen a 60-percent cut in military aid from the United States to the Government of El Salvador. That is from $226 million in 1985 to $88 million today.

Also, I think it is very important for us to look—now, the gentleman from California [Mr. DORNAN] loves to show these great charts here. I have a small graph here, Mr. Chairman, which shows the dramatic reduction in human rights violations in El Salvador from a high of 800 in 1980 down to an extraordinarily low number in 1988. We have seen continued improvement.

I think it is also very important, Mr. Chairman, for us to recognize that just last week the Washington Post had an editorial which addressed this issue very well, and I am going to read from it. It said:

> To imagine that the army would quietly absorb an aid cut and support the elected government in new negotiations is to live in a dream world. A vote for an aid cut is, perversely, a vote to fuel the war and burden negotiations.

We also know, Mr. Chairman, that we have seen this pattern back and forth. The FMLN have said time and time again, they have acknowledged to us that when they cannot win through a military offensive they move to the negotiating table. When they are at the negotiating table, they are planning their next military strike.

We saw great negotiations taking place last October. Then on November we saw this huge urban assault.

Mr. Chairman, it is very important that we maintain this consistent policy, because we do not want to, as the Washington Post has said, send this very perverse signal to the FMLN.

Mr. HAMILTON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. MCCLOSKEY].

Mr. McCLOSKEY. Mr. Chairman, I thank the distinguished gentleman from Indiana for yielding me this time.

Mr. Chairman, It is all very well and good to talk about democracy in El Salvador and say that President Cristiani is its best hope.

That may very well be, but the simple fact is that the Salvadoran military is not.

As one Jesuit Priest at the University of Central America said, "Cristiani is elected, the military is not."

How can we talk of a successful ongoing democracy when 6 priests and two women are brutally murdered in a blatant military foray with evident, strong links to the high command.

As members of the speaker's task force on El Salvador, we met recently with dozens of Salvadorans in all walks of life, including military, church, and campesinos, and others.

The interim report of that task force reveals a very flawed investigation, and even that problematic effort has been made possible only because of international outrage and hopes for continued military aid.

Meanwhile murders and disappearances of numerous others go uninvestigated. As our State Department readily, if informally, admits, El Salvador has no criminal justice system.

In the meantime, two bishops, their staff and numerous church workers report pervasive fear of the military. In fact the afternoon after the Jesuit murders, a military sound truck blared around the neighborhoods boasting of the crime and called for more killings.

One Salvadoran officer after another in talking about the church denies persecution of the church. They say they are Catholics or Christians themselves and that the military has chapel and religious services.

Such answers, Mr. Chairman, are an outrage, given the reality of life in El Salvador.

The Salvadoran military thinks, as one Jesuit asserted, that the United States will continue business as usual with military aid, regardless of atrocities.

Let us break this habit. Vote for the Moakley-Murtha substitute. It is a balanced incentive for both sides to begin to stop the killings.

Mr. BROOMFIELD. Mr. Chairman, to close the debate, I yield our remaining time to the gentlewoman from Maryland [Mrs. BYRON], the cosponsor of this amendment.

Mrs. BYRON. Mr. Chairman, I rise to support the Broomfield-Byron amendment because I think it will provide the better conditions under which a lasting peace can be achieved. It is peace, Mr. Chairman, that should be the goal of this legislation. The Speaker's Special Task Force on El Salvador concluded above all, "El Salvador must have peace." We all agree that peace could lead to major restructuring of El Salvador's political, military, and judicial systems.

I would like to focus on three specific conditions which Broomfield-Byron includes but the committee language omits. First, under our amendment the President shall withhold up to 25 percent of military aid if the Government does not take steps for judicial reform.

The task force states. "Unfortunately, the Salvadoran justice system flat out does not work." The judicial system is in shambles. The Jesuit case is stalled in part by the judicial system and in part by Judge Zamora proceeding very slowly. Second, under our amendment, the President shall withhold up to 25 percent of military aid if the Government does not separate the police from the military. For all intents and purposes they have no police as we know them. The task force states, "the need for reform within the military is obvious and admitted by the civilian leadership of El Salvador."

Third, under Broomfield, the President shall withhold up to 25 percent of military aid if the Government does not reduce and reorganize the Salvadoran military after a peace settlement has been reached. The existing committee language makes no mention of these issues and does not place any pressure on the Cristiani government to reform these institutions.

I would like to remind my colleagues that the Broomfield amendment implements the findings of the Speaker's Special Task Force on El Salvador in these areas.

□ 1900

Mr. Chairman, we should be just as interested in pursuing peace and promoting democracy in El Salvador as we are in every other emerging democracy in the world.

This amendment brings the best chance of peace. With peace comes substantial reforms that we all agree should occur.

In this country, sometimes we should be ashamed. In 1988, in our Presidential elections, only 55 percent of the voting-age population voted. The people in El Salvador have cried

out for democracy, and in that same year, 70 percent of the Salvadorans, many of them for the first time, voted in municipal elections. This was during a period of when the FMLN had knocked out 80 percent of the electricity, of the water, the communications, and all public transportation.

I watched the faces going to the polls, many for the first time, only to ask for what we already have, a vote for freedom. They now need our assistance more than ever to make political, military, and judicial reforms that they so desperately need, a reality for that freedom.

I urge the support of the Members for the Broomfield amendment to help this process along.

Mr. HAMILTON. Mr. Chairman, to conclude debate, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. KOSTMAYER].

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I am happy to yield to the gentlewoman from California.

Mrs. BOXER. Mr. Chairman, I thank the gentleman so much for allowing me to correct the record which occurred during the general debate. I want to report that, according to Americas Watch, the charges against the individual arrested by the government for the murder of Herbert Anaya were dropped in April. The judge said his confession was coerced after a line bag torture tool was put over his head, another example, Mr. Chairman, of why we should defeat the Broomfield-Byron amendment.

Mr. KOSTMAYER. Mr. Chairman, this is last week's Christian Science Monitor, May 16:

> Salvadoran judges during the past 2 weeks have dropped charges against most of those accused despite strong evidence, U.S. officials say.

They are speaking of the 10 peasants who were murdered in San Sebastian.

Members may be wondering why they did not read this on page one, despite the fact it was in the newspaper. The reason they did not read it, the reason they did not see it on television, is because it is not news. It is not news anymore when the military in Salvador get away with murdering innocent people.

Mr. Chairman, from 1979 to 1989, we spent in Salvador $5,008,558,000; $5 billion over the last decade, and not one single military officer convicted of one single crime.

For 10 years we have tried this solution, and for 10 years it has failed. The death squads are still immune from justice.

We now have a choice. We are now at a crossroads deciding whether we should continue the war or whether we can end the war. The amendment offered by my fellow Pennsylvanian [Mr. MURTHA] and by the gentleman from Massachusetts [Mr. MOAKLEY] can help us to resolve this dilemma. It applies pressure to both sides.

Do not the Members see that the Broomfield amendment only applies pressure to the left? Listen to this, the Broomfield amendment allows up to 25 percent of the aid to be withheld. That means 1 percent; that means 2 percent; that means possibly 5 percent. How is the Government in Salvador going to react if we withhold 2 percent or 3 percent? We are already withholding 10 percent for existing human rights violations.

The Broomfield amendment allows the aid to continue even if the case of the Jesuits is not resolved. The Broomfield amendment does not even apply to money this year. It waits until next year.

We have already spent $5 billion. Why do we have to wait until next year?

The Broomfield amendment will not work. We need to recognize that the only way to solve this problem is to end the war.

The problems will not be solved in that country until the war is ended. The only way to end the war is to make a reduction in military assistance. That is what Murtha-Moakley does. I urge its adoption.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. BROOMFIELD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 243, not voting 14, as follows:

[Roll No. 126]

AYES—175

Archer	Cox	Grant
Armey	Crane	Gunderson
Baker	Dannemeyer	Hall (TX)
Ballenger	Darden	Hancock
Barnard	Davis	Hansen
Bartlett	DeLay	Hastert
Barton	DeWine	Hatcher
Bateman	Dickinson	Hefley
Bentley	Dornan (CA)	Henry
Bereuter	Douglas	Herger
Bilirakis	Dreier	Hiler
Billey	Duncan	Holloway
Boehlert	Edwards (OK)	Hopkins
Broomfield	Emerson	Houghton
Brown (CO)	Fawell	Huckaby
Buechner	Fields	Hunter
Bunning	Fish	Hutto
Burton	Frenzel	Hyde
Bustamante	Gallegly	Inhofe
Byron	Gallo	Ireland
Callahan	Gekas	James
Chandler	Gillmor	Jenkins
Clinger	Gilman	Johnson (CT)
Coble	Gingrich	Kasich
Coleman (MO)	Goodling	Kyl
Combest	Goss	Lagomarsino
Coughlin	Gradison	Lent
Courter	Grandy	Lewis (CA)
Lewis (FL)	Porter	Smith, Robert (NH)
Lightfoot	Pursell	Smith, Robert (OR)
Livingston	Quillen	Snowe
Lowery (CA)	Ravenel	Solomon
Madigan	Ray	Spence
Marlenee	Regula	Stangeland
Martin (IL)	Rhodes	Stearns
Martin (NY)	Ritter	Stenholm
McCandless	Roberts	Stump
McCollum	Rogers	Sundquist
McCrery	Rohrabacher	Tallon
McDade	Ros-Lehtinen	Tauzin
McEwen	Roth	Taylor
McGrath	Rowland (CT)	Thomas (GA)
McMillan (NC)	Rowland (GA)	Thomas (WY)
Meyers	Sarpalius	Upton
Michel	Saxton	Vander Jagt
Miller (OH)	Schiff	Vucanovich
Miller (WA)	Schuette	Walker
Molinari	Schulze	Weber
Montgomery	Sensenbrenner	Weldon
Moorhead	Shaw	Whittaker
Myers	Shumway	Wilson
Nielson	Shuster	Wolf
Oxley	Sisisky	Wylie
Packard	Skeen	Young (AK)
Parker	Skelton	Young (FL)
Parris	Slaughter (VA)	
Pashayan	Smith (NE)	
Paxon	Smith (NJ)	
Petri	Smith (TX)	
Pickett	Smith, Denny (OR)	

NOES—243

Ackerman	Eckart	Lehman (FL)
Anderson	Edwards (CA)	Levin (MI)
Andrews	Engel	Levine (CA)
Annunzio	English	Lewis (GA)
Anthony	Erdreich	Lipinski
Applegate	Espy	Lloyd
Aspin	Evans	Long
Atkins	Fascell	Lowey (NY)
AuCoin	Fazio	Luken, Thomas
Bates	Feighan	Machtley
Beilenson	Flake	Manton
Bennett	Foglietta	Markey
Berman	Ford (MI)	Martinez
Bevill	Ford (TN)	Matsui
Bilbray	Frank	Mavroules
Boggs	Frost	Mazzoli
Bonior	Gaydos	McCloskey
Borski	Gejdenson	McCurdy
Bosco	Gephardt	McDermott
Boucher	Geren	McHugh
Boxer	Gibbons	McMillen (MD)
Brennan	Glickman	McNulty
Brooks	Gonzalez	Mfume
Browder	Gordon	Miller (CA)
Brown (CA)	Gray	Mineta
Bruce	Green	Moakley
Bryant	Guarini	Mollohan
Campbell (CA)	Hall (OH)	Moody
Campbell (CO)	Hamilton	Morella
Cardin	Harris	Morrison (CT)
Carper	Hayes (IL)	Morrison (WA)
Carr	Hayes (LA)	Mrazek
Chapman	Hefner	Murphy
Clarke	Hertel	Murtha
Clay	Hoagland	Nagle
Clement	Hochbrueckner	Natcher
Coleman (TX)	Horton	Neal (MA)
Collins	Hoyer	Neal (NC)
Condit	Hubbard	Nowak
Conte	Hughes	Oakar
Conyers	Jacobs	Oberstar
Cooper	Johnson (SD)	Obey
Costello	Johnston	Olin
Coyne	Jones (GA)	Ortiz
Crockett	Jontz	Owens (NY)
de la Garza	Kanjorski	Owens (UT)
DeFazio	Kaptur	Pallone
Dellums	Kastenmeier	Panetta
Derrick	Kennedy	Patterson
Dicks	Kennelly	Payne (NJ)
Dingell	Kildee	Payne (VA)
Dixon	Kleczka	Pease
Donnelly	Kolter	Pelosi
Dorgan (ND)	Kostmayer	Penny
Downey	LaFalce	Perkins
Durbin	Lancaster	Pickle
Dwyer	Lantos	Poshard
Dymally	Laughlin	Price
Dyson	Leach (IA)	Rahall
Early	Lehman (CA)	Rangel

Richardson	Shays	Traficant
Ridge	Sikorski	Traxler
Rinaldo	Skaggs	Udall
Roe	Slattery	Unsoeld
Rose	Slaughter (NY)	Valentine
Rostenkowski	Smith (FL)	Vento
Roukema	Smith (IA)	Visclosky
Roybal	Smith (VT)	Volkmer
Russo	Solarz	Walgren
Sabo	Spratt	Walsh
Saiki	Staggers	Washington
Sangmeister	Stallings	Waxman
Savage	Stark	Weiss
Sawyer	Studds	Wheat
Schaefer	Swift	Whitten
Scheuer	Synar	Williams
Schneider	Tanner	Wise
Schroeder	Tauke	Wolpe
Schumer	Torres	Wyden
Serrano	Torricelli	Yates
Sharp	Towns	Yatron

NOT VOTING—14

Alexander	Jones (NC)	Robinson
Craig	Kolbe	Stokes
Flippo	Leath (TX)	Thomas (CA)
Hammerschmidt	Lukens, Donald	Watkins
Hawkins	Nelson	

□ 1924

The Clerk announced the following pairs:

On this vote:

Mr. Craig for, with Mr. Nelson of Florida against.

Mr. Robinson for, with Mr. Stokes against.

Mr. Thomas of California for, with Mr. Hawkins against.

Mr. Kolbe for, with Mr. Jones of North Carolina against.

Mrs. LOWEY of New York and Mr. MOODY changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 101-489.

AMENDMENT OFFERED BY MR. MOAKLEY

Mr. MOAKLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MOAKLEY:

Page 65, strike out line 10 and all that follows through line 11 on page 78 (title V of the bill) and insert in lieu thereof the following:

TITLE V—EL SALVADOR

SEC. 501. ASSISTANCE FOR EL SALVADOR.

(a) STATEMENT OF POLICY.—It shall be the policy of the United States—

(1) to support the Central American Presidents' Agreement of December 12, 1989, calling upon the Farabundo Marti National Liberation Front (hereafter in this section referred to as the "FMLN") to cease its hostilities and renounce all types of violent actions that may directly or indirectly affect the civilian population of El Salvador;

(2) to support an active role for the Secretary General of the United Nations and the Secretary General of the Organization of American States in negotiations between the Government of El Salvador and the FMLN for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

(3) to review the level of military assistance for El Salvador on a periodic basis, taking into account both—

(A) the demonstrated willingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

(B) the actions of each side that affect the basic human rights of the Salvadoran people.

(b) INCENTIVES FOR PEACE: AMOUNTS OF MILITARY ASSISTANCE AVAILABLE FOR EL SALVADOR.—

(1) FISCAL YEAR 1990; CONDITIONAL WITHHOLDING OF HALF OF REMAINING MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1990 that are unexpended on the date of enactment of this Act shall be withheld from expenditure for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

(2) FISCAL YEAR 1991.—

(A) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—The amount allocated for military assistance for El Salvador for fiscal year 1991 may not exceed $85,000,000.

(B) CONDITIONAL WITHHOLDING OF HALF OF MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1991 shall be withheld from obligation for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

(C) TRANCHING OF ASSISTANCE.—Not more than half of the amount allocated for military assistance for El Salvador for fiscal year 1991 that is not being withheld from obligation pursuant to subparagraph (B) may be obligated before March 1, 1991. In order to provide time for congressional review of the report required to be submitted on that date by subsection (g), funds that become available for obligation under this subparagraph as of that date may not be expended during the 30-day period beginning on that date.

(3) USE OF FUNDS IF DETERMINATION REGARDING FMLN NOT MADE.—

(A) DEVELOPMENT ASSISTANCE.—At the end of fiscal year 1990 and at the end of fiscal year 1991, the President shall transfer any military assistance funds then being withheld pursuant to paragraph (1) or paragraph (2)(B) to appropriations accounts for development assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following) for use in providing assistance for child nutrition, health, housing, education, or other programs serving the basic human needs of the people of El Salvador. Funds so transferred shall remain available until expended notwithstanding any other provision of law. Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) applies with respect to the obligation of any funds so transferred.

(B) EXCEPTION.—Notwithstanding subparagraph (A) and paragraph (1), fiscal year 1990 funds withheld from expenditure pursuant to paragraph (1) may be used for cancellation expenses for military assistance programs for El Salvador, so long as such use does not result in the delivery of any military assistance to El Salvador.

(4) TERMINATION OF MILITARY ASSISTANCE.—If the President submits to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), all military assistance for El Salvador for fiscal year 1990 and fiscal year 1991 shall be terminated, including deliveries of previously obligated military assistance. All military assistance shall be terminated pursuant to this paragraph without regard to whether a report is submitted containing the determination regarding the FMLN described in subsection (c).

(5) RESUMPTION OF MILITARY ASSISTANCE.—If, after submitting to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), the President finds that the facts giving rise to that determination no longer prevail, the President may submit to the Congress a report describing the reasons for such finding. If the President submits such a report under this paragraph, military assistance for El Salvador may be resumed, subject to the requirements of this section.

(c) CONDUCT OF THE FMLN RESULTING IN A RELEASE OF WITHHELD ASSISTANCE.—The determination described in this subsection is a determination by the President that—

(1) the representatives of the FMLN—

(A) are declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict in El Salvador, or

(B) are rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

(2) the United States Government has proof that the FMLN is continuing to acquire or receive significant shipments of lethal military equipment from outside El Salvador, and this proof has been shared with the Congress;

(3) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN; or

(4) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.

(d) CONDUCT OF THE GOVERNMENT OF EL SALVADOR RESULTING IN A TERMINATION OF ASSISTANCE.—The determination described in this subsection is a determination by the President that—

(1) the duly-elected Head of Government of El Salvador has been deposed by military coup or decree;

(2) the Government of El Salvador is declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict, or is rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

(3) the Government of El Salvador is failing to conduct a thorough and professional investigation into, and prosecution of those responsible for, the 8 murders at the University of Central America on November 16, 1989; or

(4) the military or security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces.

(e) SUBMISSION OF REPORTS CONTAINING DETERMINATIONS.—The President may

submit to the Congress at any time a report containing the determination regarding the FMLN described in subsection (c) or containing the determination regarding the Government of El Salvador described in subsection (d). If the President determines that any of the conditions described in subsection (c) or subsection (d) exist, the President shall immediately report that determination to the Congress.

(f) STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY.—In order to strengthen the control of the democratically elected civilian government of El Salvador over the armed forces of that country, military assistance for fiscal year 1991 may be delivered to the armed forces of El Salvador only with the prior approval of the President of El Salvador.

(g) REPORTS ON SITUATION IN EL SALVADOR.—Thirty days after the date of enactment of this act and on March 1, 1991, the President shall submit to the Congress a report describing—

(1) the willingness or unwillingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador;

(2) the status of the negotiations;

(3) the criteria that the President will use in deciding whether to make the determinations described in subsections (c) and (d) with respect to negotiations and other issues; and

(4)(A) any actions of the Government of El Salvador (including the armed forces) and the FMLN that are having an adverse impact on the basic human rights of the Salvadoran people;

(B) progress made by the Government of El Salvador toward—

(i) the establishment of an effective judicial system, including the establishment of an independent, civilian investigative service;

(ii) ensuring freedom of the press and assembly; and

(iii) military reform, including the establishment of an officer promotion system based on merit and professional competence, respect for human rights, and respect for civilian control over the armed forces;

(C) the effects on the civilian population of El Salvador of economic sabotage and other acts of violence committed against civilian targets by the FMLN; and

(D) the status of investigations into the politically motivated murders of prominent political, religious, labor and other officials in recent years, and the extent to which the armed forces of El Salvador and the FMLN are each cooperating in those investigations.

(h) SUPPORT FOR DEMOCRACY PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador. The program shall be designed to—

(A) assist and involve all prodemocratic sectors in El Salvador in efforts to strengthen civilian control over the armed forces;

(B) establish an effective judicial system;

(C) facilitate the free and open exchange of political views;

(D) provide for monitoring and other activities in support of free and fair elections; and

(E) increase respect for basic civil and human rights.

(2) ELECTION MONITORING.—Of the amount made available to carry out this subsection, not less than $2,000,000 may be used only for support for monitoring the 1991 municipal and National Assembly elections in El Salvador, and for monitoring the registration and campaign processes leading up to those elections, by appropriate organizations such as Secretary General of the United Nations, the Organization of American States, the Carter Center, the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the Center for Electoral Assistance and Promotion (CAPEL) of San Jose, Costa Rica.

(3) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated $10,000,000 for fiscal year 1991 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(i) EXPEDITED CONGRESSIONAL REVIEW PROCEDURES.—

(1) DEFINITION OF PRIVILEGED JOINT RESOLUTION.—For purposes of this subsection, the term "privileged joint resolution" means a joint resolution—

(A) which—

(i) in the case of the House of Representatives, is reported by the Committee on Foreign Affairs, and

(ii) in the case of the Senate, is reported by the Committee on Foreign Relations,

during the 30-day period beginning on March 1, 1991;

(B) which would place conditions or limitations, or both, on expenditures of military assistance funds for El Salvador for fiscal year 1991;

(C) which does not contain any provision which is not germane to the conditions and limitations provided for in the joint resolution; and

(D) the title of which is as follows: "Joint resolution relating to military assistance for El Salvador for fiscal year 1991.".

(2) MOTION FOR FLOOR CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) after the day on which a privileged joint resolution is reported by the Committee on Foreign Affairs or the Committee on Foreign Relations (as the case may be), it shall be in order (even though a previous motion to the same effect has been disagreed to) for the chairman of that committee (or his designee) to move to proceed to the consideration of that joint resolution. In the House of Representatives the motion shall be that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution. The motion may be made in the Senate notwithstanding any rule or precedent of the Senate, including Rule 22. All points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed to the consideration of the joint resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to by a House of Congress, that House shall immediately proceed to the consideration of the joint resolution without intervening motion, order, or other business, and that joint resolution shall remain the unfinished business of the respective House until disposed of.

(3) DEBATE TIME.—Debate on a privileged joint resolution, and on all debatable motions and appeals in connection therewith (other than amendments made in order in the House of Representatives under paragraph (4) and a motion to recommit in the House under paragraph (7)), shall be limited to not more than 4 hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion further to limit debate is in order and not debatable.

(4) AMENDMENTS IN THE HOUSE OF REPRESENTATIVES.—Amendments to a privileged joint resolution shall be in order, and shall be debatable, in the House of Representatives to the extent ordered by the House.

(5) AMENDMENTS IN THE SENATE.—Amendments to a privileged joint resolution are not in order in the Senate.

(6) CERTAIN MOTIONS NOT IN ORDER.—A motion to postpone or to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which a privileged joint resolution is agreed to or disagreed to is not in order.

(7) FINAL PASSAGE IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, at the conclusion of debate on a privileged joint resolution and consideration of any amendments made in order to the joint resolution, the Committee of the Whole shall rise and report the resolution back to the House, and the previous question shall be considered as ordered on the joint resolution, with any amendments adopted in the Committee of the Whole, to final passage without intervening motion except one motion to recommit.

(8) FINAL PASSAGE IN THE SENATE.—In the Senate, immediately following the conclusion of the debate on a privileged joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

(9) APPEALS FROM DECISION OF THE CHAIR NOT DEBATABLE IN THE SENATE.—Appeals in the Senate from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a privileged joint resolution shall be decided without debate.

(10) CONGRESSIONAL RULEMAKING POWERS.—This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a privileged joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(j) DEFINITION OF MILITARY ASSISTANCE.—For purposes of this section, the term "military assistance" means assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the foreign military financing program) or under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program).

The CHAIRMAN. The gentleman from Massachusetts [Mr. MOAKLEY] will be recognized for 30 minutes in support of his amendment, and a Member opposed will be recognized for 30 minutes.

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

Mr. MOAKLEY. Mr. Chairman, this amendment is really the Moakley-Murtha amendment. I yield 10 minutes to the cosponsor of the amendment, the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, let me talk for a minute about my experiences in El Salvador and the trips that I have made to El Salvador and tell Members why I think this Moakley amendment is so important.

Mr. Chairman, I took my first so-called junket to El Salvador in 1982, at the request of President Reagan. Our delegation monitored an election. When we landed we got into a bullet-proof, armored car with glass that was about 2 inches thick. We could hear explosions all around. Every one of us had a bodyguard, and the Government was in disarray.

I went to visit at that time Mr. Duarte. He had not been elected under the new constitution at that time. I met with him for a short period of time, and then they sent me over to see the person who really ran the country, General Garcia.

General Garcia proceeded to tell me what was going on in El Salvador and the problems and the aid that they would need. At that time they were in the process of having a constitutional election. The new media predicted that there would be a turnout of about 25 or 30 percent because the FMLN had promised that anybody that voted would have their fingers cut off.

□ 1930

Many people had no doubt that violence would occur and there was tremendous violence.

The FMLN did everything they could to keep people from voting. Father Hesburgh was on that same Presidential delegation to monitor the election I was on, and we flew out in a helicopter to a land in areas where there had not been any Americans for years. We landed in areas where there was heavy fighting. As a matter of fact, Father Hesburgh gave the last rites to a soldier, a Salvadoran soldier who had just been killed in the fighting.

But the people came out to vote in droves, even with the threat of violence. One lady—and I told this story to President Reagan, who later reported it on national television—said, "They can kill us, they can kill my family, but they can't kill us all."

Eighty percent of the people voted in that constitutional election.

They had a Presidential election and President Duarte was elected. I returned to El Salvador, and the only thing that changed as far as the violence goes is that we did not each have a bodyguard. They had one bodyguard for two people. We still had the armored cars, we still had the bombings and at nighttime the water was shut off in the hotel and the electricity went off and on all the time because the FMLN blew up the power stations continually.

So the country was still in disarray. Duarte was elected president. He did the best he could. He had an earthquake, a devastating earthquake. I flew down with Secretary Shultz, and we saw bodies still squeezed in between buildings that had fallen down.

In the middle of the turmoil, President Duarte tried to reform the agricultural system, President Duarte addressed the judicial reforms that were necessary, and he tried to take charge of the military, no easy matter.

Duarte fought, in addition to the economic conditions and the political situation, cancer.

Finally, he succumbed to cancer.

President Cristiani was elected. Now I am not a person who wants to interfere with the elected government of another country. I feel very concerned about that. I feel very strongly when there is a democratically elected president we should be very careful in giving them advice.

But when we pour $4 billion into a country in order to help them get established, I think we as a Congress, representing the American people, have every right to put some restrictions on that aid.

I have struggled for the past 6 months to take over $4 billion of previously appropriated funds out of the U.S. defense budget requested by the President, requested by the Secretary of Defense. Many of these funds have gone to foreign aid, in order to go to Poland, in order to go to Panama, in order to go to Nicaragua.

We have taken money out of our own defense in order to help these countries. We have a right to adjust aid to a country with institutions that are not adhering to democratic principles.

I say that President Cristiani is doing as good a job as any elected president could do under the circumstances. But let me tell you this, he needs help. He needs our moral support. He needs us to say to him, "We will not accept the killing that just went on." And if you remember the first reports about the killing was that it was the FMLN that had caused the killing, well, it turned out not to be true.

JOE MOAKLEY will tell you, I sat in his investigation and I said before it became public there was no question in my mind it was the military that perpetrated the killing.

We have charged two people in Panama with murder in our military. When you are in a war, that does happen. But that does not make an excuse for it and it does not mean there should not be reform and it does not mean that the United States should not stand behind that reform and take some action that forces the El Salvadoran Government to reform their judicial system and to reform their military.

Now are we doing anything to make sure that the FMLN adheres to those same principles? We certainly are. There is nobody who abhors the violence of both sides more than I do.

What we are trying to do today, we are trying to say to El Salvador, "Reform your military, reform your judicial system." We are also saying to the FMLN, "Stop the killing, stop the violence, stop the confrontation, and stop it soon."

Again I say we have every right to send that message because we have been depleting our own military resources by cutting $4 billion out of the defense of this Nation and sending it to these foreign countries. And the American people believe a democracy should adhere to the human rights principles that are so idolized by countries throughout the rest of the world.

You know, when I went down to El Salvador, nobody looked at the United States with more awe than the people of El Salvador, the president of El Salvador. I was so conscious of their idolization of the United States, I was so conscious of them believing in the principles of democracy and that that would solve their problems. What I am saying today is it has not worked up to this point. We have made progress. President Cristiani has done everything that he could.

In this amendment we say give the aid through Cristiani, let him get control of the military. Then, in addition to that, we are saying to the FMLN, "If you continue to perpetrate these atrocities, we will give the Government the full amount of aid."

If the war ends, they will not need the aid and there is no question that we can use that money in the United States for a number of reasons; for infrastructure and for other programs.

So my feeling today, my request is that we send a bipartisan message to the FMLN, to the extremists on the right and on the left to stop the killing, come to an agreement, end the fighting, and the United States will try to help in the long run.

So I ask you to vote for the Murtha-Moakley amendment which will stop the killing in El Salvador.

Mr. BROOMFIELD. Mr. Chairman, I rise in opposition to the Moakley amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. BROOMFIELD] is recognized for 30 minutes.

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

Mr. Chairman, I oppose the Moakley amendment to title V. The Moakley amendment is identical to the Studds amendment with several provisions from the Broomfield-Byron amendment thrown in for superficial appeal.

Unlike the sponsors of this amendment, I did not have the opportunity to revise the substance of my amendment.

My amendment was filed with the Rules Committee on May 7. The language of the Moakley amendment was not made available to Republicans until May 16.

However, the merely cosmetic changes from the Studds language do not alter the fact that his amendment is every bit as objectionable, every bit as detrimental to peace, and every bit as likely to strengthen extremists as the original Studds language in title V.

The Moakley amendment contains only five changes from the Studds language. First, military aid must be channeled through the democratically elected President's office—an idea proposed in my amendment.

Second, the reporting requirements are expanded to incorporate areas which my amendment calls for.

Third, $2 million of the $10 million of democratic assistance is earmarked for monitoring the 1991 elections—a nice addition but one which has little real meaning since much of the funds would be devoted to that purpose with or without an earmark.

The final two changes deal with conditions on assassinations—providing for the termination of aid if Government forces carry out assassinations, and providing for a waiver of military aid withholding if the FMLN carries them out.

I am pleased to see the sponors have decided to place some restrictions on FMLN terrorism—but they have not gone nearly far enough. Their amendment still sanctions external arms aid to the FMLN, in direct violation of the Esquipulas II accord. Their amendment still sanctions virtually all offensive military action by the FMLN. Their amendment sanctions FMLN economic sabotage—sabotage which does more harm to the lives of poor Salvadorans then any conceivable or alleged governmental action.

Even the new assassination clause in the Moakley amendment comes into force only if killing or maiming attacks are directed at civilian targets. As I read that clause, it seems to mean that a car bomb killing children would not meet that standard as long as the car bomb was placed near a military barracks. That is hardly the way to discourage FMLN terror.

I urge the House to see the Moakley amendment for what it is: a baltant rejection of hope for bipartisan cooperation in the United States and an undermining of hope for a negotiated solution in El Salvador.

Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Oklahoma [Mr. MCCURDY].

Mr. MOAKLEY. Mr. Chairman, I yield 1 additional minute to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, it is with great reluctance that I rise today in opposition to both the Broomfield-Byron amendment and the Moakley-Murtha amendment to the fiscal year 1990 supplemental authorization bill.

My reluctance stems not out of opposition to the essential assistance that we are providing to the new Governments of Panama and Nicaragua. I support those provisions, as well as those which offer much-needed aid to countries in southern Africa and the Caribbean, and the housing loan guarantees to Israel.

Rather, I oppose these amendments on the grounds that the amendments before us today have little to do with the important question of United States policy toward El Salvador. They reflect, Mr. Chairman, what has become the standard procedure for debates on foreign policy questions in the House of Representatives. Unable to reach a consensus and their partisan passions inflamed, liberals and conservatives on both sides of the aisle ram their proposals to the floor for a few hours of partisan debate and make it virtually impossible for the United States to conduct a coherent foreign policy.

These amendments have little to do with U.S. policy because we all know their ultimate fate. They will either be dropped in conference or vetoed by the President. Since the appropriations bills contain authorizations waivers, the money will eventually make its way to Panama and Nicaragua and render the authorization process obsolete.

I do not like either of the options. But if we must vote today, Mr. Chairman, let me explain briefly why I must oppose the amendments which concern El Salvador.

The Broomfield-Byron amendment contained some constructive language concerning the need to promote military and judicial reforms in El Salvador, and it strengthens the conditions on the behavior of the FMLN. But given that the President could only withhold up to 25 percent of United States military assistance after he certified that the Government of El Salvador was not in compliance with our conditions, the impact of this language on the Salvadoran military would be minimal at best.

With all due respect to its authors, the amendment would have done little to alter our present policy toward El Salvador. That in itself was reason enough to oppose the Broomfield-Byron amendment.

Conversely, the Moakley-Murtha amendment attempts to perfect language on El Salvador as reported by the Foreign Affairs Committee. Having served on the Speaker's Special Task Force on El Salvador with the distinguished chairman of the Rules Committee, the gentleman from Massachusetts [Mr. MOAKLEY], and the gentleman from Pennsylvania [Mr. MURTHA], I can certainly appreciate the sincerity in their efforts.

But in my view, the language adopted by the Foreign Affairs Committee contains serious flaws which are not addressed in the Moakley-Murtha amendment. At the very moment when the Government of El Salvador and the FMLN are negotiating, I agree with the Washington Post when it argued last week in an editorial that this is an inopportune moment to withhold 50 percent of the remaining fiscal year 1990 and 50 percent of the fiscal year 1991 military assistance to El Salvador. Indeed, today's Post reports that the Government and the FMLN have tentatively agreed to reach a cease-fire by mid-September.

By adopting this, the Moakley-Murtha amendment, we place at risk the delicate momentum toward negotiations that presently exists in El Salvador.

Furthermore, while I support a negotiated settlement to the war in El Salvador, the committee's language places all our efforts and pressures on what is bound to be a fragile and uncertain process that could last for months. Given the deep mistrust between the Government of El Salvador and the FMLN, and the violent nature of Salvadoran society, it is very possible that these talks could be derailed at some point. Should that occur, either the Government or the guerrillas will be blamed, military aid will be restored or eliminated completely, and the war in El Salvador could explode once again.

In the meantime, we will have accomplished nothing to encourage the types of military, judicial, and economic reforms that must take place if El Salvador is to strengthen its fragile democracy and respond to the needs of its people.

Mr. Chairman, like most of my colleagues in this body, on both sides of the aisle, I believe that our assistance to El Salvador should contain conditions. But those conditions should be aimed at strengthening democratic institutions, reforming the military and judicial systems, improving human rights, and supporting the views of our Central American allies, who have called upon the FMLN to lay down its weapons and join the political process in El Salvador.

Our policy toward El Salvador should not be based on the emotions of the moment. John Kennedy once said that: "The purpose of foreign policy is not to provide an outlet for our own sentiments of hope or indignations; it is to shape real events in a

real world." Too often the United States has ignored this counsel, particularly in Central America.

The odious murder of the Jesuit priests last November by members of the Salvadoran military enraged all of us who are concerned about the abuse of human rights in El Salvador. Continuing reports of corruption in the military and an officer promotion system that rewards incompetence and refuses to discipline members of the Armed Forces who commit human rights abuses simply cannot be tolerated any longer.

There is also the glaring need for El Salvador to overhaul its present judicial system, which breeds corruption among judges who work for menial wages, allows criminals to escape justice with relative ease, and is unworthy of a functioning democracy.

But neither of the amendments before us today will do anything to alter that situation. Change must occur, or the tenuous bipartisan consensus that now exits in favor of providing assistance to El Salvador will rapidly disappear. If the Cristiani government proves incapable of enacting and implementing military and judicial reform, following economic policies which will reach the impoverished people of El Salvador, and building a society based on the rule of law, then at that point I will be the first to argue that the United States should reconsider its interests in that troubled country.

But let us not delude ourselves about the situation on the ground in El Salvador. There are two sides to the violence that afflicts Salvadoran society. The FMLN has been instrumental in bringing El Salvador to its present state of near collapse.

Some cling to the fantasy that the FMLN is a revolutionary organization fighting for the rights of the Salvadoran people. Yet there is little reason to believe that the FMLN is a force for democracy in El Salvador. Indeed, for years they have espoused a rigid Marxist doctrine which, if ever brought to power, would only worsen El Salvador's misery.

The FMLN has murdered government officials, civilians, and destroyed much of the country's infrastructure. The day after I met with a former FMLN commander who had defected, the guerrillas murdered him in the streets of San Salvador and called it revolutionary justice.

Last year, while they were negotiating with the Government the guerrillas launched a massive offensive which resulted in the needless deaths of some 3,500 people.

So we should not be swayed by those who claim great expertise in human rights that United States military assistance is the only obstacle to a negotiated settlement in El Salvador.

Ten years ago the United States began its involvement in El Salvador. Some believe that nothing has changed in El Salvador since and that the United States should walk away from El Salvador.

But no one has ever argued that building a democracy in a country with El Salvador's violent past would be a simple endeavor. It is not easy in any country. Yet a candid look at the country should lead sensible people to conclude that there has been some positive change during the last 10 years. The people of El Salvador have expressed, through five free and fair elections, a clear desire to live under a democratic government. By authorizing $10 million for the National Endowment for Democracy to Strengthen Democratic Institutions in El Salvador, both of these amendments take an important step in building a sustainable democratic center.

Finally, Mr. Chairman, once the posturing on this vote is concluded, I hope that Congress and the administration will take advantage of the opportunity to reach a bipartisan accord that, for the first time, will place effective conditions on our assistance to El Salvador—conditions which will provide incentives for change and result in a positive outcome for the people of El Salvador.

This is not the last vote on El Salvador, and it is not likely to be the most important. The debate about El Salvador has so far focused on military aid and human rights. But building a democratic society in which all Salvadorans can participate freely and with a sense of security is equally important. Mr. Chairman, I will vote "no" on the substitute and "no" on final passage.

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Mr. GILMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, the Moakley-Murtha amendment which has a third sponsor who is unnamed—Rube Goldberg, I believe, because he must have dreamed up this amendment—it is an impenetrable maze. It is not going to end the fighting, it will prolong the fighting.

My good friend, the gentleman from Pennsylvania [Mr. MURTHA] talked about his trip down there, but he did not talk about the amendment. I can understand why. I do not think many people realize what this amendment does. Permit me to share the information with Members.

In fiscal 1991, the bill authorizes $85 million in such assistance, but withholds half, unless the President makes certain determinations regarding the FMLN. Moreover, on the half that is not withheld, only half of that may be made available prior to March 1, 1991, at which time the President must report to Congress on the reactions of the Government and the FMLN toward achieving a negotiated peace. The remaining withheld funds shall be made available at that time, but may not be expended, until the expiration of the 30-day congressional review period of the President's report. Any joint resolution reported from the Committee on Foreign Affairs or the Senate Committee on Foreign Relations during the 30-day review period, which places conditions or limits on fiscal 1991 military aid for El Salvador shall be privileged, for consideration on the third day after it is reported or at any time thereafter.

Now, any joint resolution reported prior to March 31, 1991, would remain privileged through September 30, 1991. It need not be considered during the 30-day review period, 7 months.

So, that is what we are dealing with. That is this amendment. It tilts the playing field in favor of the urban terrorists known as the FMLN. We are told there is no military solution. Well, there is a military solution, and the military solution is to aid the constitutionally elected government of Mr. Cristiani. The FMLN does not want a negotiated solution unless the Government shares power. They want to share power. They cannot win power at election time through the ballot box, because they do not have any popular support. They rise up in San Salvador and kill a couple of thousand people, and they do not have any popular support. So now we will help them along, by cutting 50 percent of the military aid to the duly elected government because they have not solved the Jesuits' murder yet.

□ 1950

Mr. Chairman, I know we have allies around the globe that have not solved all of their problems, too, but we do not demand of them satisfactory solutions or else we will cut their aid in half.

We speak of democratic principles. Why do we impose on the people of El Salvador more tyranny from the FMLN?

Mr. Chairman, I ask the Members to vote no on this amendment.

The CHAIRMAN. The Chair will state that the gentleman from Michigan [Mr. BROOMFIELD] has 22 minutes remaining and the gentleman from Massachusetts [Mr. MOAKLEY] has 19 minutes remaining.

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

Mr. MOAKLEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, tonight I rise to support the Moakley-Murtha amendment. This debate proposes cutting this aid by 50 percent.

My only disappointment is that it is not a total cut.

I can only say this evening that the road to hell is paved with good intentions and the United States has meant well in El Salvador but to no avail. And unfortunately, our good intentions seem recently to be resulting in just the opposite of what we originally intended—democracy in El Salvador.

Our hope has always been that human rights would mean something in El Salvador. And yet, continuing evidence shows that this just has not been the case. All signs point to the fact that this won't be the case in the future. Unfortunately there is a persuasive mentality, especially by the military, that the end justifies the means. This was brutally made clear in the murder of the Jesuits and the two women last year.

It diminishes us as a nation to continue to send aid to El Salvador—to allow the trampling of people's rights exactly how the U.S. taxpayer would not want his money spent.

How ironic that this bill is called aid to emerging democracies—nations that have moved away from repressive rule and human rights violations and toward peace, and freedom. Yet included in this bill is more military aid to El Salvador—aid that throughout the years has fueled the military which has repeatedly demonstrated its disregard for human rights, peace and freedom.

I'm afraid the Moakley task force report says it best: "The Salvadoran judicial system is an oxymoron, neither systematic nor just." I believe supporting any more aid to the Salvadoran military to promote peace in El Salvador is an oxymoron—it will not buy peace, it is not just, nor moral.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, we have heard a great deal of condemnation directed at the Government of El Salvador. Let us remember how that government came into being:

March 1989: For the sixth time in 7 years, democratic elections are held throughout El Salvador. These were free, fair and monitored by observers from throughout the world. The winner, with 54 percent of the vote, was the current President, Alfredo Cristiani.

Three things stand out about that election. First, over 85 percent of the eligible voters actually turned out to vote. They did so because, in the words of a 60-year-old housewife, as quoted in the New York Times.

I'm not afraid of bullets. We have to vote to make a change in this country and show that El Salvador has guts.

Second President Cristiani won this election thanks to his support from the civilian population. Although permitted by law, the military does not vote in El Salvador's elections—let me repeat that: Although permitted by law, the military does not vote in El Salvador's elections. This is the decree from the Chief of El Salvador's Armed Forces, who wants to ensure that there is not even the illusion of partisanship within the military. So the fact that Christiani won is due entirely to his support within the Civilian population.

The third thing that stands out is the Cuban and Sandinista directed FMLN rebels wanted no part of this democratic process. The fact is, on that day, they launched sabotage raids in 10 of the country's 14 Provinces. Ten government soldiers were killed that day and 44 were wounded—all by the FMLN rebels, grand guardians of the people.

Now, this body is poised to hand over to the Communist rebels the very power they could not win at the ballot box. That is the travesty being discussed there today.

Consider this: According to a commission by USIA in March 1990 of this year, only 1 in 10 El Salvadorans have a favorable opinion of the FMLN—70 percent of the people view them unfavorably and 55 percent view them very unfavorably.

It gets more interesting: When asked whether the army or the FMLN has less respect for human rights, only 12 percent said the Army; 55 percent said the FMLN.

This poll was conducted by CID, the Gallup affilite in Costa Rica, and the poll takers bent over backward to ensure that people would give their honest opinions.

The El Salvadorans, I believe, gave their honest opinion to these pollsters because the results track so closely with that country's actual election results.

Now, here we sit, safely insulated from the horrors of guerrilla war, and some Members prepare to undercut the very democratic foundations we've been trying to nurture these last 10 years. We owe the Salvadorans our support—not the butchers who murdered the Jesuit priests—but the 5 million people who have continually voted against the FMLN in every single election held since that country became a democracy.

The FMLN rebels say they want negotiations. The problem is—you cannot negotiate democracy. Democracy means free elections and it means that all parties involved agree to settle their differences by forces of ideas—not force of arms.

FMLN rebels know only the force of arms and they wield that force with deadly accuracy. No amount of sugar-coated peace proposals covers the blood of the dozens of mayors and other government officials the FMLN has butchered.

Mr. Chairman, totalitarians always have a reason why you can't trust the people and why elections should not be held. Adolf Hitler called the Germans "voting cattle." The FMLN is no different.

Let us not do what the vast majority of El Salvadorans refuse to do—hand power over to the FMLN—and that is exactly what passage of H.R. 4636, in its current form, would help do.

SALVADORANS OVERWHELMINGLY REJECT FMLN GUERRILLAS; SOLIDLY SUPPORT CURRENT GOVERNMENT

(This report is based on the results of both USIA-commissioned and contractor questions placed on an omnibus survey of public opinion in El Salvador. A nationally representative sample of 1274 Salvadorans, age 18 and older, residing in 12 regional departments was interviewed in person. Two departments (with 10% of the population) were not surveyed due to FMLN/army activity. Fieldwork took place March 9-21, 1990, prior to the late March agreement between the government and the FMLN to renew peace talks. Special precautions were taken to minimize respondents' fear of repercussions from Salvadoran authorities and/or FMLN.)

MOST SALVADORANS VIEW FMLN WITH DEEP DISFAVOR

The continued sabotage of the economy and attacks on civilians have left the guerrilla umbrella organization, "Farabundo Marti de Liberacion Nacional" (FMLN), with little support among the Salvadoran public. Barely one Salvadoran in ten has a favorable opinion of the FMLN; seven-often have an unfavorable view. The public's rejection of the FMLN is of notable intensity; 55 percent have a "very unfavorable" opinion of the rebel organization (table 1). [1] However, more Salvadorans now blame Nicaragua and Cuba (49%) than the FMLN (15%) for the war's continuation, reflecting both the recent offers by the FMLN to negotiate for peace and the local media emphasis, in conjunction with the Nicaraguan elections, on the high levels of aid given the FMLN by the Sandinista government.

U.S. VIEWED WITH FAVOR BY ALMOST ALL; PLURALITY APPROVES AID AMOUNTS

The extent of U.S. involvement in El Salvador over the past decade has not compromised the traditionally high level of favorable Salvadoran opinion of the United States. Four-of-five Salvadorans have a favorable opinion of the U.S., with support extending across the Salvadoran political spectrum (table 3). A solid plurality (43%) of the Salvadoran public believes that the U.S. economic and military aid to the country is "about right," while 29 percent think the U.S. should provide more (table 4).

EARLY EXPECTATIONS OF CRISTIANI AND ARENA GOVERNMENT ARE UNFULFILLED

A non-USIA poll in September, 1989 indicated that Salvadorans had high expecta-

[1] Similar attitudes were found in a nationwide poll conducted in December 1988 by the Catholic University-affiliated Instituto Universitario de Opinion Publica (IUDOP), directed by Fr. Ignacio Martin-Baro, one of the Jesuit priests assassinated in December of 1989. Of that sample, which overrepresented women and the more educated, 60 percent had a "bad" or "very bad" view of the FMLN, while 11 percent had a "fair," "good," or "very good" opinion.

tions for Cristiani and the ARENA government at that time (three months after his inauguration): 69 percent thought that it was at least somewhat probable that spiraling inflation would be brought under control and 43 percent believed it likely that the ten-year war would end.[2] Nine months into President Cristiani's term, neither has been accomplished in the view of his countrymen. Many think not only that the cost of living has increased "a great deal" (78%), but that Cristiani has done little or nothing to ameliorate the situation (54%). This contrasts markedly with the opinion which prevailed in September, 1989 that the government had done "a great deal" (62%) or "a fair amount" (20%) to limit cost-of-living increases (tables 5,6). Next to the ongoing war (37%), most Salvadorans think that the deteriorating economy (28%) is the most serious problem they face today (table 7).

DISAPPROVAL OF CRISTIANI'S JOB PERFORMANCE IS MINIMAL

Although Salvadorans have yet to see their expectations met by the ARENA government, support for President Cristiani continues virtually unchanged from the high levels of six months ago. Salvadorans who believe he is doing a good job exceed those who say he is doing a bad job by a 4-to-1 margin (44%-10%). Approval is highest among ARENA supporters and diminishes leftward across the political spectrum. Even among supporters of the FMLN-affiliated Democratic Convergence (CD), more believe he is doing a good or "neither good nor bad" job than a bad one (table 8).

CRISTIANI'S POPULARITY REMAINS WIDESPREAD

Cristiani's personal popularity has remained as solid as his job performance levels: 72 percent have a favorable opinion of the president, more than any other Salvadoran politician (in September his favorable rating was 71%). Public support for ARENA politicians is not limited to Cristiani. Armando Calderon Sol, president of the party and mayor of San Salvador, is the nation's second most popular politiciana with a 65 percent approval level. However, approval for Roberto D'Aubuisson, founder of ARENA and long linked to death-squad activity in the early 1980s, declined substantially during the period, from 37 percent in September to 23 percent today (table 9).

ARMY HELD IN HIGH REGARD BUT FEW EXPECT CONVICTION OF OFFICERS ACCUSED OF JESUIT MURDERS

The Salvadoran army is viewed favorably by almost three-quarters of the Salvadoran public (72%). Only among the very small number of CD-party members does an unfavorable opinion prevail, reflecting the long conflict between members of the armed forces and radical groups in El Salvador (table 10).[3] Asked which group—the army or the FMLN—has less respect for human rights, a solid majority of respondents (55%) select the FMLN guerrillas, while a small minority (12%) cite the Salvadoran army (table 11).

Nevertheless, when it is stated that "the FMLN has insisted that it will only agree to negotiations if the armed forces are restructured and purged" at least one-third of the surveyed population (36%) favor a restructuring and purging of the armed forces. However, an equal number (36%) is opposed to such a reorganization.[4] Relatively few Salvadorans (28%) have any confidence that the military men accused of the murders of six jesuit priests in November will, if they are guilty, actually be convicted and sentenced by the courts. A large majority (72%) are either not very confident or do not have an opinion on the outcome of the judicial process (table 13).

Asked which conclusion to the war would be best for the Salvadoran people, respondents select a negotiated settlement between the FMLN and government (68% by a three-to-one margin over a military victory by the armed forces (20%) and by a better than 30-1 margin over a military victory by the FMLN (2%; table 14).

However, few Salvadorans are optimistic about the ultimate outcome of such negotiations. Less than one-in-five (17%) expects the war to end within three years; most can not say how long they believe it will continue (49%) while another 27 percent believe that it will go on for more than six years (table 15). These attitudes prevail despite the fact that most Salvadorans (54%) expect the FMLN to be "much weaker militarily" once the Sandinistas are out of power in Nicaragua and unable to provide current levels of logistical and advisory support (table 16).

CHAMORRO'S VICTORY IS APPLAUDED

Over two-thirds of the Salvadoran public believe that it is "good" (69%) rather than "bad" (3%) that Violeta Chamorro won the recent presidential elections in Nicaragua and most of those who support the electoral results that the Sandinistas will turn over full control of all government institutions to UNO (tables 17, 18).

HOW THE SALVADORAN POLL WAS TAKEN

This public opinion survey is based on face-to-face interviews with 1274 adults in El Salvador. Fieldwork took place March 9-21, 1990. Sample construction and fieldwork were performed by CID, the Gallup affiliate located in Costa Rica, in accordance with that firm's standard omnibus procedures. The USIA Office of Research developed and placed 15 questions on the survey, which were translated into Spanish by CID with review by the Office of Research. USIA received the tabulated findings the week of April 2, 1990.

The sample was selected by a modified probability method, and covered both urban and rural populations. Twelve of El Salvador's fourteen regional departments entered into the sample; two departments, Chaletanango and Morazan, with a population of approximately 545,000 (10% of El Salvador's estimated 1990 total) were not surveyed due to the high probability of conflict in these areas. Isolated very low-density areas in other departments were also excluded. One primary sampling point (psu), La Union city, had to be substituted when the local army commander refused to permit interviewing to take place. No more than ten households were contacted at each urban psu and twenty households, in two segments of ten each, were contacted at each rural psu. Respondents were selected by quotas for age, sex, education, and region, according to estimated population distributions. Due to the difficulty of returning to selected households if the indicated respondent was not available, immediate substitutions were made. Approximately 20% of each interviewer's work was verified through personal reinterviews.

To minimize respondents' potential fears of repercussions from either the armed forces or the FMLN if true opinions were expressed, interviewers wore clearly visible cards identifying themselves as working for a Costa Rican firm. This strategy mitigates against respondents giving false answers, and was successfully used in CID's pre-election polling in Nicaragua, where CID correctly found opinion favoring Chamorro over Ortega.

Ninety-five times out of one hundred, results from samples of this size will yield results which differ by no more than about 3 percentage points in either direction from what would have been obtained were it possible to interview everyone in the target population. However, the clustering technique increases this margin of error somewhat, as does the comparison of smaller subgroups. In addition, the practical difficulties of conducting any survey of public opinion in Central America may introduce other sources of error.

Results of the CID questions on the survey have been released in Central America by that firm.

Question. And the FMLN—do you have a favorable or unfavorable opinion of the FMLN? Is that somewhat favorable/unfavorable or very favorable/unfavorable?

TABLE 1.—SALVADORANS REJECT FMLN

[In percent]

	Total public	Political affiliation[1]			
		Arena	PDC	CD	Other/none
Date—March, 1990:					
Sample size	(1274)	(519)	(260)	(39)	(456)
Very favorable	4	4	5	21	3
Somewhat favorable	7	7	6	23	6
Total favorable	11	11	11	44	9
Somewhat unfavorable	15	14	18	10	15
Very unfavorable	55	63	54	36	47
Total unfavorable	70	77	72	46	62
Do not know/no response	19[2]	12	17	10	29
Total	100	100	100	100	100

[1] Ruling rightist party (54 percent of March presidential vote). PDC—Opposition Christian Democrat Party (37 percent of vote). CD—Democratic Convergence Party, newly formed left-wing party founded by members of FMLN's political arm (3 percent of vote). Due to the small number of respondents in this subgroup, results may vary by as much as 20 percent in either direction. Other—47 respondents expressed as support for other small parties. None—354 responents did not voice a party affiliation. These were relatively evenly distributed across geographical, age, and education subgroups, with no statistically significant concentration in any one subgroup.

[2] Unless otherwise noted, respondents giving "No response" did not exceed 5 percent of the sampled population. For this question "No response"—6 percent (6 percent for PDC, 9 percent for Other/none).

Source: USIA—commissioned question.

Question. In general, do you have a favorable or unfavorable opinion of the United States? Is that somewhat favorable/unfavorable or very favorable/unfavorable?

TABLE 3.—SALVADORANS HAVE HIGH OPINION OF THE UNITED STATES

[In percent]

	Total public	Political affiliation			
		Arena	PDC	CD	none
Date—March, 1990:					
Sample size	(1274)	(519)	(260)	(39)	(456)

[2] Data are from a comparable nationwide survey of 1216 Salvadorans also conducted by CID.

[3] A December, 1988 IUDOP survey, cited above, found that 45% believed that the armed forces were doing a good job, while 33% thought they were doing neither a good nor bad job, and 10% believed they were doing a bad job.

[4] A May, 1989, IUDOP/UCA poll similar to that cited above found that most Salvadorans (76%) favored "cleaning up the Army" if it was a pre-condition to negotiations, but a large plurality (45%) was opposed to "reducing the army to its 1979 size."

TABLE 3.—SALVADORANS HAVE HIGH OPINION OF THE UNITED STATES—Continued

[In percent]

	Total public	Political affiliation			
		Arena	PDC	CD	none
Very favorable	44	50	42	23	40
Somewhat favorable	36	33	36	36	38
Total favorable	80	83	78	59	78
Somewhat unfavorable	7	8	8	10	5
Very unfavorable	7	5	10	31	6
Total unfavorable	14	13	18	41	11
Do not know/no response	7	4	4	0	13
Total	101	100	100	100	102

Source; USIA-commissioned question.

Question. As you may know, the United States is currently giving substantial military and economic aid to El Salvador. Do you think the amount of this U.S. aid is too much, about right, or not enough, or haven't you heard enough to say?

Table 4.—U.S. aid amounts about right

[In percent]

	Total public
Date—March, 1990:	
Sample size	1274
Too much	14
About right	43
Not enough	29
Do not know/no response	15
Total	101

Source: USIA-commissioned question.

Question: Thinking back over the past four months, do you think the cost of living has risen a great deal, a fair amount, not very much, or has it stayed about the same?

TABLE 5.—MOST SEE SPIRALING INFLATION

[In percent]

	Total public	Total public
Date	Sept. 1989	March 1990
Sample size	(1216)	(1274)
A great deal	62	78
A fair amount	20	8
Not very much	18	7
About the same	(1)	6
Don't know/No response	(1)	2
Total	100	101

[1] In 1989 survey, final three response categories were combined.

Source: CID questions.

Question. And how much do you think President Cristiani's government has done to limit the cost-of-living increases—a great deal, a fair amount, not very much, or nothing at all?

TABLE 6.—MANY THINK CRISTIANI HAS DONE LITTLE TO CONTROL INFLATION

[In percent]

	Total public	Total public
Date	Sept. 1989	March 1990
Sample size	(1216)	(1274)
A great deal	62	12
A fair amount	20	28
Not very much	10	20
Nothing at all	8	34
Don't know/No response	0	7
Total	100	101

Source: CID questions.

Question. Now thinking again about the situation here in our country. What is the most serious problem that we have at this moment? (SHOW CARD)

Table 7.—Plurality see war as most serious problem

[In percent] *Total Public*

Date March 1990:	
Sample size	(1,274)
Civil war	37
Government corruption	6
The economy	28
Crme and violence	14
Others	10
Don't know/No response	5
Total	100

Source: CID question.

Question. On the whole, how would you rate Alfredo Cristiani's work as President—would you say it was very good, good, neither good nor bad, bad, or very bad?

TABLE 8.—FEW SEE CRISTIANI DOING A BAD JOB

[In percent]

	Total public	Total public	Political affiliation			
			Arena	PDC	CD	Other None
Date	09/89	03/90				
Sample size	(1,216)	(1,274)	(519)	(260)	(39)	(456)
Very good	17	15	24	7	8	9
Good	28	29	37	20	15	27
Total good	45	44	61	27	23	36
Neither good/bad	47	40	30	50	36	44
Bad	6	6	4	12	21	3
Very bad	1	4	2	6	13	4
Total bad	7	10	6	18	34	7
Don't know/No response	1	7	3	4	8	12
Total	100	101	100	99	101	99

Source: CID question.

Question: Now, to change the topic, I have some names of Salvadoran politicians and I'd like you to give me your opinion—either favorable or unfavorable—of each of them.

TABLE 9: OPINIONS ON SALVADORAN POLITICAL LEADERS

	September 1989, Favorable	March 1990		
		Favorable	Unfavorable	DK/NR
(a) Alfredo Cristiani	71	72	12	16
(b) Armando Calderon Sol	70	65	13	22
(c) Fidel Chavez Mena	38	45	26	29
(d) Antonio Guevara Lacayo	19	24	29	48
(e) Fito Rey Prendes	29	23	36	41
(f) Roberto D'Aubuisson	37	23	43	34
(g) Antonio Morales Erlich	21	21	40	39
(h) Hugo Murillo	11	13	30	57
(i) Guillermo Ungo	14	12	52	36
(j) Ruben Zamora	14	11	45	44
(k) Mario Aguinada	10	7	29	64

Source: CID question

Question: All things considered, do you have a favorable or unfavorable opinion of the Salvadoran army? Is that somewhat favorable/unfavorable, or very favorable/unfavorable?

TABLE 10: SALVADORAN ARMY HELD IN HIGH REGARD

[In percent]

	Total public, March 1990	Political affiliation			
		ARENA	PDC	CD	Other/ None
Sample size:	(1274)	(519)	(260)	(39)	(456)
Very favorable	37	46	34	18	32
Somewhat favorable	35	36	35	15	37
Total favorable	72	82	69	33	69
Somewhat unfavorable	8	8	10	10	6
Very unfavorable	8	5	12	44	5
Total favorable	16	13	22	54	11
Don't know/No response	12	6	10	13	[1] 21
Total	100	101	101	100	101

[1] "No response"—6 percent.

Source: USIA-commissioned question.

Question: Of the two groups—the army and the FMLN—which has less respect for human rights? In other words, which of

these two groups has most abused the Salvadoran people?

TABLE 11: MAJORITY BELIEVE FMLN HAS LESS RESPECT FOR HUMAN LIFE THAN ARMY

Total public, March 1990

	Percent
Sample Size	(1,274)
Army	12
FMLN	55
Both (volunteered)	13
Don't know/No response	20
Total	100

Source: CID question.

Question: The FMLN has insisted that it will only agree to negotiations if the armed forces are restructured and purged. Do you favor or oppose a restructuring and purging of the armed forces? Do you somewhat favor/oppose or very much favor/oppose?

TABLE 12: OPINION IS DIVIDED ON ARMY RESTRUCTURING IF LINKED TO NEGOTIATIONS

[In percent]

	Total public, March 1990	Political affiliation			
		ARENA	PDC	CD	Other/ none
Sample size:	(1,274)	(519)	(260)	(39)	(456)
Very much favor	10	8	13	26	9
Somewhat favor	26	27	29	33	23
Total in favor	36	35	42	59	32
Somewhat oppose	13	17	14	10	8
Very much oppose	23	26	25	21	20
Total opposed	36	43	39	31	29
Don't know/No response	27	22	20	10	39
Total	99	100	101	100	0

Source: USIA-commissioned question

Question: As you may know, a number of military men have been accused of the murders of six jesuit priests last November and are now awaiting trial. If they are guilty, how confident are you that these men will actually be convicted and sentenced by the courts—are you very confident, somewhat confident, or not very confident?

TABLE 13: FEW HAVE CONFIDENCE IN SALVADORAN COURTS IN JESUIT CASE

[In percent]

	Total public March 1990	Political affiliation			
		Arena	PDC	CD	Other/ None
Sample size	(1,274)	(519)	(260)	(39)	(456)
Very confident	15	17	15	15	12
Somewhat confident	13	15	12	0	12
Not very confident	40	41	42	72	35
Don't know/No response	[1] 32	27	30	13	41
Total	100	100	99	100	100

[1] "No response" equals 6 percent (9 percent for PDC supporters, 8 percent for Other/None).
Source: USIA-commissioned question.

Question: Which outcome to the war do you think would be best for the Salvadoran people—a military victory by the current government, or a military victory by the FMLN, or a negotiated settlement to the conflict?

TABLE 14: MOST FAVOR NEGOTIATIONS

Total public, March 1990

	Percent
Sample size	(1,274)
Military victory by government	20
Military victory by FMLN	2
Negotiated settlement	68
Don't know/No Response	10
Total	100

Source: USIA-commissioned question.

Question: Thinking about the war between the government and the FMLN, how much longer do you think the war will continue—less than one year, or between one year and three years, between three years and six years, or over six years?

TABLE 15: MOST SALVADORANS ARE PESSIMISTIC ON DURATION OF WAR

Total public, March 1990

	Percent
Sample size	(1,274)
Less than 1 year	6
1-3 years	11
3-6 years	8
Over 6 years	27
Don't know/No response	49
Total	101

Source: USIA-commissioned question.

Question: Some people say that the FMLN will be much weaker militarily once the Sandinistas are out of power. Others say that the FMLN will be just as strong militarily even though the Sandinistas are out of power. Which view is closer to your own?

TABLE 16: MOST EXPECT FMLN TO WEAKEN

Total public, March 1990

	Percent
Sample size	(1,274)
Weaker	54
Just as strong	19
Don't know/No response	[1] 27
Total	100

[1] "No response" equals 6 percent.
Source: USIA-commissioned question.

Question: Now a couple of questions on the recent elections in Nicaragua. As you may know, Violeta Chamorro defeated Daniel Ortega and the Sandinista Front in the presidential elections. On the whole, do you think that it is good or bad that Chamorro won, or haven't you heard enough to say?

TABLE 17: MOST SALVADORANS APPLAUD UNO VICTORY

Total public, March 1990

	Percent
Sample size	(1,274)
It is good	69
It is bad	3
Haven't heard enough	16
Don't know/No response	12
Total	100

Source: USIA-commissioned question.

Question: (If says Chamorro victory good) Are you optimistic or pessimistic that the Sandinistas will turn over control of all government ministeries and forces to the new Chamorro government?

TABLE 18: BROAD OPTIMISM THAT SANDINISTAS WILL TURN OVER POWER

Total public, March 1990

	Percent
Sample size	(1,274)
It is good	45
It is bad	12
Haven't heard enough	12
Don't know/No response	31
Total	100

Source: USIA-commissioned question.

Mr. MOAKLEY. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in support of the Moakley-Murtha amendment. When the Jesuits and two others were murdered last November, we saw the most brutal sign of the Salvadoran military's indifference to human rights and the rule of law. The murders revealed a problem which has been an obstacle to peace for over a decade: The military still cannot distinguish between legitimate intellectual dissent and armed insurrection. Clearly, our just sending more military aid will not solve that problem or allow a democracy to develop. Understanding that there is brutality in both sides of this conflict, I believe we need to send a message that the United States Government will not support this kind of brutality.

I have supported aid, military and economic aid, to El Salvador for years. But based on my last trip to El Salvador it convinced me that this war will go on forever with thousands of additional casualties unless the United States pushes the parties to peace. This proposal will help us get there.

What incentive would the Salvadoran Government have to negotiate a peace agreement if United States aid continues to flow without regard to how it is used? The Salvadoran Government has taken the first positive steps toward peace talks with the FMLN in recent weeks only because of threats to reduce United States aid. If the threats prove empty, so will the government's efforts to negotiate with the FMLN to achieve peace. Let us not pass up a chance to vote for peace, support Moakley-Murtha.

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Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the Moakley amendment.

The Moakley amendment is essentially the Studds language from H.R. 4636 with a couple of additions from the Broomfield-Byron amendment.

The few changes it makes to the Studds language are not enough to make it any more acceptable.

It still rewards the FMLN guerrillas for its military offensive last November. It still punishes a democratically elected government. And, it still represents a rejection of the administration's effort to achieve a bipartisan consensus on El Salvador.

The Moakley amendment, as the Studds language it replaces, characterizes the two sides in El Salvador as

though they are competing democratic forces. The FMLN guerrillas are not social democrats. They are terrorists, assassins, and saboteurs.

The FMLN says it will not target civilians and then turns around and conducts military activities that cause civilian deaths.

The FMLN says it wants negotiations, but they walked out of negotiations last fall and started a major military offensive that cost the lives of more than 2,000 Salvadorans.

The Moakley amendment cuts military aid to the democratic government by 50 percent but says that the FMLN guerrillas can continue to receive lethal military aid from outside sources like Cuba and the Sandinistas in Nicaragua.

To encourage negotiations, to encourage a peace agreement and to encourage better performance in the observance of human rights, you do not accomplish those objectives by cutting in half military aid to a long-time, valued ally with a democratically elected government, so recognized by all the Central American Presidents.

I urge my colleagues to vote against the Moakley amendment.

Mr. MOAKLEY. Mr. Chairman, for purposes of debate only, I yield 1½ minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I rise in support of the Moakley-Murtha amendment.

Yesterday, the arms control and foreign policy caucus issued a report documenting that serious human rights abuses have been carried out by troops under the command of 14 of the 15 most senior officers in charge of El Salvador's top commands.

When we got involved in El Salvador, we gambled that we could reform the El Salvador military. This report makes it tragically clear that this gamble failed.

Eleven of the fourteen commanders cited in the report received U.S. training. This raises doubts about the Salvadoran military's ability to absorb human rights principles and therefore about the relevance of the United States training itself.

After 10 years, we must recognize that we have been unable to instill respect for basic democratic values or the rule of law in the Salvadoran military.

One underlying justification for United States security assistance is to professionalize the military in a country like El Salvador and to foster in it a respect for civilian control.

In El Salvador, loyalty between officers prevails over justice. In none of the 50 cases covered by this report have even junior officers been brought to trial. They are protected by their colleagues.

There is widespread corruption in the Salvadoran military. Many officers have knowledge of each other's questionable business practices. United States officials interviewed for the report estimate that 15 percent of the Salvadoran Army is made up of ghost soldiers. These salaries end up lining the pockets of their commanders.

These are extremely disturbing findings.

Whatever one's political perspective on this issue these facts should not be ignored.

This is not a record of which we can be proud. This is not a policy we can continue to sustain.

I urge an aye vote on the amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I will have a smaller post card delivered to my colleagues' offices tomorrow.

This is a repeat, but good things are worth repeating, Mr. Chairman.

Mr. Chairman, I believe everyone in this House wants to see freedom in every country in Central America. Although Abraham Lincoln said in February of 1860, beginning the Presidential election, that different people have different definitions for the word "liberty," and the world has sought for centuries to come up with one unified definition, what some of my colleagues thought was eventually going to be liberty under Danial Ortega did not work out, and a handful of us here cozied up to him so closely that it was bordering on the obnoxious, if not the treasonous, but I think everybody realizes it was good that the first lady in the history of this hemisphere was elected to the Presidency of a country, and maybe, if we get money down there to Nicaragua to help liberty breathe, then maybe we will see the end of killing and terrorism in El Salvador.

Now I was just in the cloakroom and found a full page ad by the airline that I think is the best run in the United States of America, American Airlines, and they say that starting this summer they are going to add to the routes to Guatemala City, San Jose, Costa Rica, and Caracas flights to Belize, two cities in Honduras and to San Salvador, That is the best news I have seen for San Salvador for a long time.

Mr. Chairman, if the FMLN is emboldened by wrong signals inadvertently sent from this House and continues the killing of mayors, the assassinations of elderly priests, as the gentleman I mentioned earlier, an American with dual citizenship in San Salvador, Francisco Peccarini, if they have an idea that somehow or another they can rescue their failed 12-year slaughter in El Salvador by playing games at negotiations, the way we have seen in Vietnam with Le Duc Tho getting the Nobel Peace Prize as he was laying the very plans for a Communist conquest, 2 years of insane deliberation at Panmunjom, months wasted over what the size of the table would be.

Over this last week I have started reading Robert Conquest's book, "The Great Terror." The story of Stalin is so much more horrible than anybody ever discussed on the floor of this Congress over the last 70 years that it defied comprehension. Communism is so rotten and evil, so utterly bankrupt, right before our eyes in just the last few months, and why would anybody of good conscience in this Congress do anything to embolden these pathetic Farabundo Marti terrorists in El Salvador?

Mr. Chairman, I will tell my colleagues what I think on the next go-around because we keep revisiting this.

Mr. MOAKLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I strongly support the provision in this bill that would withhold 50 percent of this year's military aid to El Salvador. This kind of action is long overdue; and while I would rather see Congress take even stronger action, I believe this is a worthwhile and needed first step. I urge my colleagues to support this provision and oppose any weakening amendments.

Last week, the Washington Post opined that a vote to withhold military aid to El Salvador would in fact fuel the war and burden any negotiations. Incredibly, the Post argued that the best way to prevent further slaughter in El Salvador would be for the United States to continue to send $1.4 million per day in arms and ammunition, and trust the bloody Salvadoran Armed Forces to do the right thing.

This is the very same argument that the Reagan and Bush administrations have made for the past 10 years. Ten years during which time the Armed Forces have not been effectively reformed. Ten years during which soldiers led by United States-trained officers, armed with United States-supplied equipment, have brutally terrorized and tortured and often murdered Salvadorans by the tens of thousands. Ten years during which labor leaders, priests, human rights leaders, and farm organizers have been targeted for arrest and murder by the Armed Forces and their allied death squads.

That military aid strategy has been proved bankrupt. Enough is enough. It's time for a complete overhaul of our policy toward El Salvador. I hope this bill will start us on the way.

Make no mistake: I am no fan of the rebel FMLN forces. The FMLN has its own history of killings and human rights abuses. For example, human rights observers have amply documented the FMLN's inhuman tactic of mining areas used by civilians, and their cynical terror in killing mayors in rural areas. Similarly, their decisions in November to break off talks, go on the offensive, and use civilians as a shield were reprehensible. A U.S. policy that led to an FMLN victory would be awful.

But it is intolerable to continue to fund the current and macabre status quo. For a full decade, the Salvadoran military has succeeded in stifling any hope for a negotiated political settlement to the current civil war. The military has never had any reason to negotiate, because even after the most brutal and public abuses, the Reagan and Bush administrations have never seriously threatened an arms cutoff.

So it is up to us in Congress to create a mechanism where the Salvadoran military will have something to lose if negotiations don't proceed. Under the provisions of this bill, the Salvadoran Government must participate in good-faith negotiations to bring about a solution, or risk their entire military aid package.

To keep the military in line, another provision would cut off all military aid in the event of a coup by the military. And to ensure that the FMLN does not take advantage of these provisions, full aid could be restored if the FMLN balks at good-faith negotiations. So, we endeavor to make both sides behave.

This is not a perfect arrangement, but it's a good start and one that merits support. The leaders of this effort, including Mr. MOAKLEY, Mr. MURTHA, and Mr. BONIOR, deserve our thanks on this. Once again, I urge my colleagues to vote for this provision and to oppose any efforts to weaken it.

Mr. MOAKLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Chairman, I rise in support of the Moakley-Murtha substitute conditioning military aid to El Salvador. There has never been a greater opportunity in the last 10 years to bring the bloody conflict in El Salvador to an end. Rapidly changing events around the world in the past year have opened a large window of opportunity which we should not let pass. Passage of this substitute could not be better timed to take advantage of the moment.

As our relations with the Soviet Union continue to improve, civil conflicts around the world are no longer framed in the context of an East-West struggle, and Soviet support for insurgent movements such as the FMLN is ending. The free and fair elections in Nicaragua have also demonstrated that there are peaceful and workable alternatives in the region far more preferable to continued conflict. These events have increased the chances for a negotiated settlement to end the war in El Salvador.

A decade of continued and bloody fighting in El Salvador has led only to a stalemate with no possibility of a military victory by either side. Tragically, this has resulted in over 72,000 Salvadoran deaths, mostly civilian, and cost American taxpayers over $4 billion. It has also caused divisiveness and rancor among the American people and, indeed, among Members of Congress, perhaps unparalleled since the Vietnam war. People on both sides and of all shades of opinion are weary of this seemingly unending conflict.

Mr. Chairman, it is highly appropriate that the initiative for peace be promoted by the United States. Because of our vast investment in time and resources in El Salvador, we have a special ability and responsibility to quickly change the course of the conflict and bring about peace. If the administration is reluctant to exercise the necessary leadership, the Congress must. By failing to act now, the United States will be implicitly condoning extremists on both sides and merely prolonging the inevitable outcome—a negotiated settlement—but at the cost of additional lives and money.

Let us examine this proposal carefully. It is a moderate, middle-of-the-road proposal to use American military aid as a lever to move the entire peace process forward. It would function as two-edged sword, for it would cut either way, providing incentives for both the Salvadoran Government and the FMLN to negotiate a permanent settlement of the war.

The starting point would be to cut 50 percent of the as yet unobligated fiscal year 1990 military aid program and 50 percent of the fiscal year 1991 level. If the Government fails to negotiate in good faith, or to conduct a serious investigation into the murder of the six Jesuit priests, or if the Salvadoran military attempts to overthrow the civilian government, all military aid would be terminated.

On the other hand, the onus is also on the FMLN, for it too must negotiate in good faith, not receive significant lethal military aid from abroad, and refrain from military actions that threaten the existence of the civilian Salvadoran government. Otherwise, all military aid will be restored.

Some have argued that it is unfair to withhold 50 percent of the military aid to El Salvador. After receiving more than $4 billion of assistance from this country, the Salvadoran Government can hardly complain that we have not been supportive. More to the point, why does that Government need military aid at current levels? If it is truly interested in negotiating a peaceful settlement, it should not be conducting military operations as before. If the FMLN disregards the peace initiative and either receives significant military aid from abroad or engages in significant military activity, the President can promptly restore military aid to the Government in toto. If the Government pursues peace in good faith, where is the risk?

Mr. Chairman, I think that this is an eminently fair and balanced proposal. The provision would support ongoing United Nations efforts to mediate the conflict and would protect the constitutional government of President Cristiani from actions to oust it by either the FMLN or the Salvadoran military.

This proposal also provides a vehicle for the administration and Congress to work together toward a mutual object—peace in El Salvador. It does not obstruct the President in his efforts, only requiring that he submit two reports to Congress which simply describe the status of peace negotiations, the criteria he will use to judge its progress, and actions adversely affecting human rights. This is information we will request in any event. If the Congress is unhappy with the situation at the time of the second report, the burden is on us to act within 30 days to disapprove or modify the President's request for the balance of the aid. The 50 percent cut in aid is not automatic.

Mr. Chairman, the time has never been better for a proposal such as this. It offers real hope that a decade of fighting can be brought to an end, thus freeing the Salvadoran people from the terror of war and lifting the burden of financing this costly conflict from the American taxpayer. I therefore urge my colleagues to support this measure.

Mr. MOAKLEY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong support of the Moakley-Murtha amendment, which will add further conditions on aid to El Salvador over and above those which are already contained in this bill.

It is absolutely essential that we act now to condition aid to El Salvador. In fact, I favor a much more significant change in policy than the one that is contained in this bill. I am a cosponsor of H.R. 3733, legislation proposed by Representative DELLUMS to cut off all aid to El Salvador until that nation dramatically improves its human rights record.

United States policy toward El Salvador is not working. We have sent billion of dollars of United States aid to El Salvador in recent years.

However, this aid has not contributed to an end to the bitter conflict in that nation.

It has not brought an end to the brutal murders of civilians by the military in that nation.

It has not brought an end to the outrageous human rights abuses in that nation.

Rather, the violence, the killings, and the human rights abuses continue unabated.

When six Jesuit priests and other civilians were brutally murdered in El Salvador last fall, I called on President Bush to suspend all military aid to El Salvador until death squad activities have ceased, the responsible parties have been brought to justice, and human rights reforms have been enacted. Although President Cristiani has now acknowledged that the Salvadoran army was responsible for the killings, the responsible parties have not yet been brought to justice, and there appears to be a significant question as to whether this will ever occur. I do not believe that we should continue U.S. aid unless the guilty parties are convicted and sentenced, and we are certain that these heinous crimes will not be repeated in the future.

In addition, we must do whatever is possible to encourage a diplomatic resolution of the conflict in that nation. The Moakley-Murtha substitute begins this essential process.

To help encourage a negotiated settlement of the war in El Salvador, the bill as drafted withholds 50 percent of United States military assistance to that nation. The aid could be restored or completely eliminated if the President certifies that specified actions by the Salvadoran Government or the rebels have occurred.

Importantly, all military aid to the Salvadoran Armed Forces would be terminated if the President determines at any time that: The Salvadoran Government has not conducted a thorough and professional investigation into the murders of the six Jesuit priests, their housekeeper, and her daughter; the Salvadoran President has been overthrown in a military coup; or the Salvadoran Government has not participated in good faith in peace talks or is not supporting an active United Nation role in the talks. This aid cutoff would apply to all

fiscal year 1990 and fiscal year 1991 military assistance.

At the same time, military assistance could be restored if the FMLN has not negotiated in good faith or has failed to support an active role for the United Nations in the peace talks; the United States Government has proof that the rebels are continuing to acquire significant shipments of military equipment from abroad; or the rebels have launched a military offensive which jeopardizes the survival of the Salvadoran Government.

The Moakley-Murtha substitute goes even further than the pending bill in placing additional conditions on aid to El Salvador. It also contains important provisions designed to strengthen civilian control over the military and to authorize funding for monitoring local elections in El Salvador. And it requests essential information from the President on progress made by El Salvador relating to judicial reform, freedom of the press and assembly, and military reform.

It is time to rethink our Nation's approach to the conflict in El Salvador. We cannot continue to blindly send United States dollars to El Salvador when atrocities of this nature continue to occur. While the Moakley-Murtha amendment does not go as far as I think it should, it represents a strong first step in the fight to end the horrible human rights abuses in El Salvador and to bring about a peaceful resolution of the conflict in that nation.

We simply cannot tolerate a continuation of the status quo, which perpetuates the cycle of violence in that nation. To do so makes the taxpayers of the United States accomplices to these atrocities. We must change United States policy toward El Salvador so that we will make a real contribution toward peace and democracy.

Once again, I urge the support of my colleague for the Moakley-Murtha amendment, which will begin this important process.

Mr. MOAKLEY. Mr. Chairman, for purposes of debate only, I yield 1½ minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I have been to El Salvador four times, and every time I go people are wringing their hands about the latest atrocity committed by the El Salvador military. There are atrocities on all sides; we know that. But we are not funding the atrocities by the FMLN. We are funding the El Salvador military.

On my last visit I went to a village called Corral el Piedra which the El Salvador Air Force, with our funds and with our weapons, bombed, rocketed, and strafed. The bombing killed 5 people, 4 of them children, and wounded about 30 others. The Government tried to blame the guerrillas for the deaths, but then it turned out the Government with our money had killed these civilians. The eventual rationale was that guerrillas had been seen in the area. But in this attack, no guerrillas were hurt, only civilians.

Mr. Chairman, those were our funds that financed that attack on unarmed civilians, and many others. If we are not prepared after 8 years and $4 billion to begin putting conditions on these moneys, given the fact that these atrocities against civilians, one after another, have been committed with our funds, I really wonder where the moral leadership of this Congress would be.

The key to this Murtha-Moakley amendment is that for the first time we would provide incentives for negotiations to be concluded, not just engaged in. Right now the El Salvador military has very little incentive to successfully conclude the negotiations, only to engage in the negotiations, for the El Salvador military is on a very lucrative gravy train of United States aid. The negotiations will only succeed when each side recognizes that the war will be defunded, and each side will eventually have to live with each other.

We have to make it clear that we know what our own intelligence people have said, that war is militarily unwinnable by either side. Thus negotiations have to happen, and they have to be concluded successfully. That is the only way the killing can stop. This amendment provides for the first time the incentives to accomplish that. We owe it to our own beliefs, and to the thousands who will yet be slain if the war is not ended, to pass this amendment.

□ 2010

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I rise in opposition to the Moakley amendment.

I sent this bullet to my colleagues in a Dear Colleague letter earlier this week. This bullet was manufactured in Cuba last year. It was captured in El Salvador in March of this year.

If we establish ground rules on our aid to El Salvador, to the democratically elected Government of El Salvador, the only ammunition that will be flowing into El Salvador will be coming from Cuba. That will not lead to more democracy. That will lead to a Cuban-style dictatorship. Castro is not going to quit sending his bullets because of high-sounding rhetoric coming out of the Congress of the United States.

President Cristiani has courageously stepped forward to admit that renegades in his own armed forces committed murders against church men and women in El Salvador, but to threaten President Cristiani's aid is absurd and counterproductive and it will mean even more killings on both sides.

Holding a democratically elected government liable for a lack of progress toward a negotiated settlement which is totally dependent on the good intentions of Communist guerrillas will be even more absurd and more counterproductive.

There is no symmetry in this amendment. It is weighted on the side of the Communist guerrillas because it will cut off aid to Cristiani. It will mean a continuing flow from Cuba of this type of ammunition to the Communist guerrillas.

Let us defeat this amendment. Let us give democracy, President Cristiani and our friends, a fighting chance in Central America.

Mr. MOAKLEY. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SOLARZ.]

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

Mr. Chairman, our friends on the other side of the aisle have denounced the amendment before us on the grounds that it would reward terrorism and penalize democracy.

I say it would do nothing of the sort. I think it is a constructive amendment. I think it is a creative amendment. I think it is a commendable amendment.

Our friends on the other side of the aisle say that if this amendment is adopted it could result in a 50-percent reduction in the level of our military assistance to the armed forces of El Salvador; but in order for that 50-percent reduction to take place, the President of the United States, no friend of urban terrorists, would have to find that the FMLN in El Salvador is willing to negotiate a settlement of the conflict in good faith, that it is no longer receiving significant amounts of military assistance from outside of the country, that it is no longer engaged in the assassination of civilians or is attacking civilian targets and that it is not posing a serious threat due to offensive operations to the survival of the Government of El Salvador.

Now, I want to ask my friends on the other side of the aisle, if in fact the FMLN is willing to negotiate a settlement and a cease-fire in good faith, if it is in fact no longer receiving significant amounts of arms from outside of the country, if in fact it is no longer assassinating civilians or attacking civilian targets, and if in fact it is not posing a serious threat to the survival of the government, then why not reduce the level of military assistance by at least 50 percent? Under those circumstances, if we are on the verge of a cease-fire, if the guerrillas are not attacking civilians or civilian targets, if they are not getting arms from outside the country, if they do not pose a threat to the survival of the government, then the government does not need 100 percent of the aid.

I would say to my friends on the other side of the aisle that $42.5 million, the cut that would be made in our military assistance to El Salvador, is a small price to pay to get a cease-fire, to get the guerrillas to stop receiving arms from outside the country,

to induce them to refrain from assassinating civilians and attacking civilian targets, we could increase by a factor of 10 or 100 the amount of military assistance to the Government of El Salvador, and it will not solve the problem; but by offering this modest incentive to the FMLN we may, in fact, be able to take a significant step toward a solution of the problem.

So Mr. Chairman, I urge the adoption of the Moakley-Murtha amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

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

Mr. Chairman, let us clarify who is who and what is what. At the outset of this debate, we were told we should support the Murtha-Moakley amendment because it would help President Cristiani.

Does President Cristiani support this amendment? I am told that he does not. So much for that reason for supporting the amendment, unless we are arrogant enough to believe that we know what is good for President Cristiani better than President Cristiani does.

We have been told that this is a balanced amendment. If that is so, would the FMLN be supporting an amendment which was truly balanced? I do not think so. I doubt the FMLN would come out for an amendment that was balanced in any way, shape, or form, and yet they support this amendment. At least I am told that their front group in the United States, called CISPES, supports it. That would seem to indicate that the amendment lacks balance, but instead leans toward the goals of the Communist guerrillas.

If you look at who is who and what is what, it seems to me you have no choice but to vote against the amendment.

Mr. MOAKLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. FASCELL], the distinguished chairman of the Committee on Foreign Affairs.

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

I rise in support of the substitute amendment that the gentleman from Massachusetts has proposed. It is a good substitute, because it places additional conditions relating to the conduct of both the FMLN and the military forces of El Salvador and makes other conditions, such as providing for civilian control over the military, by making aid go through the President and other matters. It does not touch the funding.

Let me say, Mr. Chairman, that the rationale is hard for me to understand. The more I hear about this debate, the less I understand why we are debating it. If the rationale is that the FMLN is acting up because of this resolution, the President would have the right immediately to say he is going forward with the assistance, and I doubt that anybody could stop it.

Furthermore, if we assume that the FMLN is good, acting properly, what happens is this. The $130 million in military assistance still goes forward, half in fiscal year 1990, which is $70 million, and half in fiscal year 1991, which is roughly $42½ million, or roughly $130 million.

The substitute amendment does not take that money away from the people of El Salvador. It puts it on the economic side, where presumably if both parties are acting in good faith and they are acting for the benefit of the people of El Salvador, you need less military aid and more economic aid.

Finally, all the decisions on this are subjective. They will be made by the President of the United States.

If you do not vote for this substitute and you do not vote for the bill, remember this. You will be voting against assistance to Panama, assistance to Nicaragua, assistance to Haiti, assistance to the Caribbean, additional assistance for refugees in Africa, housing investment guarantees for Israel, and other important programs.

Mr. Chairman, I urge a vote for the substitute amendment and for the bill.

□ 2020

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, I am truly perplexed at what we are doing here today.

For a long time the United States has tried to influence events in El Salvador, and through the efforts of the leadership on both sides of this body and the administration, we have made a lot of progress.

When Alfredo Cristiani was elected President of El Salvador, I think most of us felt that we had a real chance not only to assist economically but also to improve the conditions for human rights in El Salvador, and I do not think anyone here would suggest that President Cristiani has not tried very hard to achieve that result. As a matter of fact, I appreciated the comments of the gentleman from Pennsylvania who has coauthored this amendment in that regard, and I know that he has tried very hard to reach a common ground here in achieving both the goals of assisting economically and helping with regard to human rights.

But this amendment does not further that end. We know the President will veto the bill if either the Moakley amendment or the original bill are adopted. So what is the purpose of pursuing this amendment but to provide embarrassment and further contention on the issue?

We have provided aid in this amendment; 50 percent of the aid for the military would be cut, and 50 percent of the aid in the pipeline for 1990, and 50 percent of the 1991 aid would be cut. Why are we cutting the 1990 aid as we are already into this calendar year? There is not a real explanation as to how this is going to positively influence events in El Salvador.

It is just beyond me, Mr. Chairman, why, if we are really concerned about providing positive incentives to the Government of El Salvador, we are going to do this to them when it is very clear this is exactly counterproductive to their efforts to achieve human-rights reform.

We need to assist President Cristiani, not punish him Mr. Chairman, it just does not seem to me this proposal would provide any kind of positive incentive for President Cristiani.

What are we really trying to achieve here?

Then on the other side of the coin with regard to the FMLN, we do not hold them accountable if they engage in economic sabotage, if they continue to import arms in violation of the Arias peace accord which has, of course, been occurring, if they continue to launch a bloody offensive, it does not do anything about that, or the killing of civilians and in terrorist attacks.

It just does not seem to me, Mr. Chairman, that this amendment or the original bill is going to be productive. Therefore, I wonder what we are doing here.

Since the President will veto the bill, let us go back to a proposal that will actually have an influence in El Salvador that will positively influence events there both economically and in the sense of advancing the cause of human rights.

If we are able to do that, I think we can say we have done something good for the establishment of democracy and human rights in Central America.

So I reluctantly urge a no vote on the Moakley amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I am indicating that I will vote no on this amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield the balance of our time to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, let me say that I rise to speak against this amendment with great sadness. I have the greatest respect for the distinguished chairman of the Committee on Rules. I have great respect for the gentleman from Pennsylvania who has

so often been helpful in so many ways on defense and foreign policy, and yet as I look at the various analyses of the bill and of the amendment, as I talk with the State Department and the White House, I have to come to the conclusion that the Moakley-Murtha amendment is, in fact, simply Studds with a Pennsylvania accent, that it is in fact simply the same basic problem.

I want to start by reading from the Washington Post, because I think their editorial of Tuesday, May 15, said it all. They went right at, I think, what is the core problem with this amendment, and, frankly, the reason that I would urge the President to veto this bill in its current form or with this amendment.

The Washington Post, in an editorial entitled "To Help Salvadorans Negotiate," said the following:

The House Democrats have chosen an odd moment to press their attack on military aid to El Salvador. Formal negotiations between the Salvadoran government and guerrillas are due to start tomorrow in Caracas under the United Nations. These talks face great uncertainties, but the uncertainties could only be aggravated if the United States were to send "its" side to the table with a thunderous no-confidence gesture. Why would liberal Democrats think such a signal would make either government or insurgents more receptive to the concessions that both must make if something resembling peace is finally to come?

Part of the answer is that supporters of an aid cut are disgusted by the failure of El Salvador to bring the murderers of the Jesuits to swifter, surer justice. Nor is that terrible crime the only one that matters. The protesting congressmen are completely right to be disgusted. But they are not right to think that an aid cut is the best remedy. An aid cut is less likely to punish the armed forces, and least of all to ensure justice for the Jesuits, than to tip the armed forces even more toward vengence. The last time the army agreed to go along with negotiations, the guerrillas used the time to prepare and launch the most ferocious offensive of the war—in the cities last November. To imagine that the army would quietly absorb an aid cut and support the elected governemnt in new negotiations is to live in a dream world. A vote for an aid cut is, perversely, a vote to fuel the war and burden negotiations.

The United States could, of course, walk away from El Salvador. This would tend to be the practical effect of an aid cut, which would not only stiffen the military but tempt the guerrillas to play out talks to tire Congress. But this is a strange time to make a decision likely to add to El Salvador's agony. The turn from war to elections in Nicaragua sets a relevant example. For the first time in El Salvador, there's a serious mediator—the U.N. Moscow if not Havana has shown itself ready to turn down the Central American heat. The Bush administration asks for the opportunity to apply the bipartisanship it demonstrated it could put to good use in Nicaragua. It has a policy focused in the first instance on a cease-fire. This is the way to prevent further Jesuit slaughters and further FMLN assaults and to turn El Salvador onto a road to peace.

That is all the Washington Post. That is not a rightwing publication. That is not George Bush.

What is it saying? It is saying that we are at a tender moment in Central America when we have an opportunity to encourage the government and the guerrillas to negotiate to an agreement that would end the killing.

What does it say of the proposal from the Democratic left? It says, "It is to live in a dream world. A vote for an aid cut is, perversely, a vote to fuel the war and burden negotiations."

I know my friends mean well. I know how deeply their heart is burdened. But if the effect of what they are doing is to say to the hard-line elements of the army, "You had better slaughter everyone now before the American aid ends," if the effect of what they are doing is to say to the guerrillas, "You had better drag out the war until the U.S. Congress cuts off all the money," what a terrible tragedy, if those who in this House have most frequently spoken for peace were tonight to offer an amendment which even the Washington Post says may perversely increase the risk of bloodshed.

Then, of course, having realized that the original Studds proposal was a disaster, there is an effort to develop a figleaf to provide a few difference, and yet any reasonable analysis suggests that with only exceptions, all other provisions are identical, including the lack of positive incentives for the Government of El Salvador, the withholding of 50 percent of fiscal year 1990 and fiscal year 1991 military assistance, the tranching of 25 percent of fiscal year 1991 aid, and seriously flawed expedited procedures.

To vote yes on this amendment, I think, is to run a real risk of increasing the danger of war in El Salvador.

□ 2030

Mr. MOAKLEY. Mr. Chairman, I yield such time as he might consume to the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Chairman, our policy in El Salvador has failed. The civil war in that country has gone on for 10 years now, and 70,000 people have died. The Salvadoran justice system is a farce, and based on the report of the Speaker's task force, it appears that the investigation of the November Jesuit murders has stalled. Even though we have seen several democratic elections, it is obvious that the military continues to be the strongest element in the country. It is also clear that neither the Government nor the guerrillas can win a military victory.

As we debate the issue of aid to El Salvador, it seems to me that we all have common hopes for the people of that country—to end the fighting and bloodshed, to foster respect for human rights, to encourage serious negotiations. In short, our goal is to help both sides in the Salvador conflict find solutions to their many conflicts and disagreements.

It is important that we send a message to both the government and the guerrillas that they must be willing to compromise. Negotiations without compromise are meaningless and I, for one, am not prepared to support a continuation of aid to El Salvador without progress in the peace talks.

The Broomfield substitute, which would not withhold any aid, is clearly not the way to go. It is little more than a smokescreen that calls for a continuation of business as usual. It would continue a seriously flawed policy at a time when substantial change is desperately needed.

I urge my colleagues to reject the Broomfield substitute and support the Moakley-Murtha plan. It strengthens the prospect of accomplishing the goals we share for resolving the conflicts that are tearing apart this war-torn country. It is certainly the only proposal I have seen that creates strong incentives for all parties in the conflict to engage in serious negotiations.

Under the terms of the Moakley-Murtha substitute, the United States would withhold half of all military aid provided in both fiscal years 1990 and 1991, unless the FMLN guerrillas launch a military offensive, refuse to participate in negotiations with the Cristiani government, receive large-scale arms shipments from foreign powers, assassinate or abduct civilians, engage in violent acts against civilians, or fail to stop such attacks by elements under FMLN control.

All military aid would be terminated if the Cristiani government is overthrown, if the government fails to conduct a thorough investigation into the 1989 Jesuit murders, if it refuses to negotiate with the guerrillas, or if the military is assassinating or abducting civilians, engaging in violent acts against civilians, or failing to stop such attacks by elements under its control.

There are many other provisions, including one which requires the prior approval of the President of El Salvador before any military assistance can be delivered to the armed forces. That should help take the much-needed step of strengthening civilian control over the military.

But in my view, the single most important aspect of this bill is that it provides incentives for peace, not for war. It encourages the FMLN to put down its arms and rejoin the democratic process. It encourages the government to control the thugs and assassins in the military. It tells the military that human rights violations will not be tolerated. And it makes it clear to both sides that the United States expects them to engage in the process of give-and-take that characterize all serious negotiations.

Mr. Chairman, I urge my colleagues to support the Moakley-Murtha substitute and the supplemental foreign aid bill.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I have left.

The CHAIRMAN. The gentleman from Massachusetts is recognized for 8 minutes.

Mr. MOAKLEY. Mr. Chairman, for 10 long years, the people of El Salvador have confronted the harsh realities of war, and all its painful conse-

quences. They have been forced to suffer far more, than any of us in this chamber can possibly realize. And, now, they beg their leaders, and they plead with us, for peace.

Those of us in this chamber have had, over the years, heated debates on the issue of United States policies in Central America—and today is no exception. But I believe it is important to recognize that there are new attitudes and actions by the Bush administration and Members of both parties, to achieve common ground, and a bipartisan policy, towards dealing with El Salvador.

I commend Secretary of State Baker, and Assistant Secretary Aronson, for their willingness to attempt to reach an agreement on this issue. And, I hope, whatever the outcome of today's vote our negotiations with the administration will continue.

I also want to commend my colleagues on the other side of the aisle—many who have approached this delicate issue with great sensitivity. Despite the differences we may have over today's vote. I have no doubt that every Member of this body shares the goal of peace with democracy in El Salvador. I have no question about this.

And, I also have no question that the President of El Salvador, Alfredo Cristiani, is a man of good will, who has a deep commitment to the well being of his countrymen. I seek support for the Moakley-Murtha substitute in order to strengthen President Cristiani, to allow him the ability to lead his people to the future of peace and justice.

Mr. Chairman, over 6 months ago, in the middle of the night, six of the most respected Jesuit priests in El Salvador, along with their housekeeper and daughter, were brutally murdered by members of the Salvadoran military. Those who pulled the trigger and committed this heinous crime, included men trained with American money, by American servicemen, on American soil. We all bear some responsibility for this crime—in much the same way we must all bear some responsibility for the war, which has claimed over 70,000 lives.

The faces of the six holy men, and the mutilation of their bodies, are now known to all of us, and to all Americans. But sometimes, I think we have not seen, or have more easily forgotten, the faces of those 70,000 Salvadorans over the past 10 years who have lost their lives because of the war.

Mr. Chairman, every human being is holy and every human soul is deserving of justice.

On December 5, Speaker TOM FOLEY appointed me chairman of a special task force to monitor the Salvadoran Government's investigation into the murders of the Jesuits, and to report directly to him and to the Congress. The task force completed and submitted an interim report on April 30—which you have all seen.

It's a fair report—and it's an accurate report. It calls the Jesuit investigation flawed—and warns that the investigation is in danger of falling apart. It is important to emphasize that the investigation is in disarray, despite the fact that there has been an enormous amount of international pressure demanding that justice be done in this case.

And I truly believe that the existence of the task force and its report—and the concern of so many in this Congress—has helped achieve the very limited progress we have seen on the Jesuit case.

But, it is unrealistic to believe that every time there is a human rights abuse in El Salvador, the Speaker will appoint a task force to apply pressure to the appropriate authorities. And after 10 years of United States aid and influence, it is a sad commentary that congressional delegations—both Democratic and Republican—have felt compelled to travel to El Salvador to plead with the military. The investigators, the Attorney General, and the judge to move on the case. That is very troubling.

Also troubling is the fact that the murder of the Jesuits was not an isolated incident. The murders reflect problems within the Salvadoran armed forces that go far beyond the actions of a particular unit on a particular night. These murders are not simply the actions of a few renegade military and political figures operating at the margins of Salvadoran society but they stem from attitudes and actions that go to the very heart of the armed forces and other major institutions in that country.

Time and time again we have heard top Salvadoran military and political officials label the Jesuits and other religions as Marxists and enemies of the State.

Mr. Chairman, such accusations are an outrage. In the United States, such accusations would be an insult; in El Salvador, they could be a death sentence.

I knew two of the slain priests—Father Segundo Montes and Father Ignacio Ellacuria. They were friends. They were men of peace who condemned the violence on both sides. In fact, President Cristiani publicly praised the work of father Ellacuria.

But sadly, to this day, there is an attitude of suspicion and anger towards activist segments of the church that remains all too widespread within the Salvadoran armed forces and certain other sectors of Salvadoran society. It is an attitude that allowed for the murders of the six Jesuits.

Mr. Chairman, with deep regret I have concluded that the American people and the American Congress have been played for fools by the Salvadoran military and forces from both the left and the right, who need war to continue, in order to sustain and expand their power and dominance in that troubled land. Corruption is a way of life and American taxpayer money for 10 years now has not been used to build peace with democracy—but to destroy hope and build the private bank accounts of those who get rich at the expense of the Salvadoran people and the American people. This must end and it must end now.

Elements of the FMLN, like elements of the Salvadoran military, are committed not to peace but to war. Let me be clear that I condemn all parties, and all individuals, who ignore the needs of the Salvadoran people and seek only to sustain the war in order to sustain their power. The Moakley-Murtha proposal, I believe, will end this travesty, and restore to the civilian government of El Salvador, the rightful authority to meet the needs of its people and end the tyranny of the corrupt and violent.

Mr. Chairman, I am a bread and butter politician from South Boston—not a foreign policy expert. This is my first foray into the world of international politics. But when it comes to the issues of life and death, justice and injustice, dignity and inhumanity—you do not need a Ph.D. in foreign policy to take a stand.

I am taking a stand today. Enough is enough. The time to act has come. They killed six priests in cold blood. I stood on the ground where my friends were blown away by men to whom the sanctity of human life bears no meaning—and men who will probably never be brought to justice.

Mr. Chairman, it is time to act

The Moakley-Murtha substitute puts pressure on both sides to end the violence and negotiate peace.

Peace, if it comes, could mean a restructuring of the Salvadoran armed forces—and a major reduction in its numbers.

It could provide an opportunity to seriously reform the judiciary.

It could end the economic sabotage and political killings.

It could allow for greater respect for the views of political dissenters.

And it could allow the Salvadoran people a chance at true democracy—something they desperately want.

Mr. Chairman, I plead with my colleagues today to help make peace a reality in El Salvador.

Vote yes on the Moakley-Murtha alternative. And vote yes on final passage.

Mrs. LLOYD. Mr. Chairman, I rise today in opposition to the provisions contained in title V of H.R. 4636, as well as the substitutes to those provisions offered by my colleagues from Massachusetts, Pennsylvania, and Michigan. I think everyone in this Chamber desires

a peaceful settlement to El Salvador's tragic civil war, but I do not believe the options before us today advance that cause.

There is general agreement that the prospects for peace in El Salvador are brighter today than at any point in past. Cold war tensions are subsiding and support in the Soviet Union for proxy wars like the one it has helped carry on in El Salvador is evaporating. United Nations mediated peace talks between the Salvadoran Government and the FMLN have begun. The presence of the United Nations at the negotiating table lends these talks a credibility previous negotiations between the government and the FMLN lacked.

The question before us today is, "how can the United States best contribute to the prospect for peace in El Salvador and advance the negotiatons?" Asking this question is a lot easier than developing an aid policy which answers it.

The bottom line is that any aid program this body adopts today must be balanced. The incentives to negotiate in good faith and produce a lasting peace and the punishments for failing to do so must weigh as heavily upon the Government of El Salvador as they do the FMLN. An imbalanced approach will ultimately undermine the negotiating process. It is my opinion that none of the options before us today strike that balance. Adoption of any one of them, the recommendation of the Foreign Affairs Commitee, the Moakley/Murtha amendment, or the Broomfield amendment, will not further United States policy in El Salvador and contribute to a peaceful resolution of that country's civil war.

The Foreign Affairs Committee language and the Moakley/Murtha language rightfully condemn the human rights abuses by the Salvadoran military and calls upon the Cristiani government to prosecute those responsible for the heinous attack on six Jesuits and two women at Central American University last November. However, I believe it is inappropriate to cut fiscal year 1990 military aid. The broomfield amendment does not make any significant changes in United States policy towards El Salvador. Yet, the problems highlighted by the Speaker's Task Force on El Salvador with the Jesuit investigation and the Salvadoran judicial system, as well as the just initiated negotiations between the Cristiani government and the FMLN clearly suggest some changes in United States policy toward El Salvador are necessary.

There is a opportunity to reach a bipartisan accord on United States policy towards El Salvador which will contribute to a peaceful solution to that country's civil war. Today's debate preempts that possibility. Rather than address the issue of the United States' policy toward El Salvador during consideration of the fiscal year 1991 foreign aid bill, as I believe appropriate, the issue is being forced upon us prematurely without thoughtful consideration to the latest developments in El Salvador. I am speaking of reports in this morning's Washington Post that the Cristiani government and the FMLN have reached agreement setting September 1990 as the target date for implementation of a cease-fire.

Mr. Chairman, I urge my colleagues to vote "no" on all the amendments relating to title V, as well as "no" on final passage.

Mr. ATKINS. Mr. Chairman, I rise today to offer my support for the Moakley-Murtha substitute pertaining to aid to El Salvador in the supplemental foreign assistance to emerging democracies bill. For the first time, the United States would be withholding a large portion of military aid to El Salvador and, simultaneously, linking aid to the transgressions of the rebel FMLN forces as well as the Government of El Salvador itself.

The legislation before us today withholds 50 percent of the fiscal year 1990 funds that have not yet been spent, and 50 percent of the authorized fiscal year 1991 funds. Should the FMLN or the government cease to negotiate in good faith; if bloody reprisals begin anew; or if massive flows of arms are funneled to guerrilla forces, then assistance levels would reflect new circumstances. Moreover, this legislation insists that the Salvadoran Government finally conduct a thorough investigation of the Jesuit priests and bring to justice those who would commit such heinous crimes.

Among those who have taken up arms in El Salvador there are no innocents. The government and the rebels alike have wantonly and knowingly taunted and brutalized and terrorized the Salvadoran people. If the United States does not act, there will be no advocates left who have the strength, the will, or the power to sue for peace.

It is the Moakley-Murtha substitute which wisely looks after the innocent civilians of El Salvador. This provision has our aid serve as an inducement for long overdue relief for civilians living a life of fear and anguish. If the police or the military in El Salvador again begin the assassination or abduction of civilians; or if they commit acts of violence against civilian targets; or if they fail to control elements within El Salvador who brutalize civilians, all aid will be cutoff immediately. Likewise, if such acts are committed by the FMLN, the government forces would be put at an advantage.

Mr. Chairman, we can no longer be a party to the cycle of violence that has haunted Central America for so many years. We must admit to ourselves that our aid has not contributed to a more just and Democratic society in El Salvador. Indeed, we must face the fact that for the preponderance of Salvadorans, theirs is a frightening, repressive, and bleak world and, sadly, the United States has not thus far been able to help them. Let us now try something new; let us apply our massive amount of aid for the good of the innocent civilians or let us cease aid altogether. But, let us no longer give comfort to the combatants who wantonly murder priests, mothers, children, farmers, and all the Salvadoran innocents.

Mr. OWENS of New York. Mr. Chairman, I rise in strong support of the Moakley-Murtha substitute amendment for aid to El Salvador. I believe the committee reported provisions are good, but the Moakley-Murtha substitute is better.

During the past 10 years the United States has sent nearly $1 billion in military aid to El Salvador. During that time the Salvadoran military has expanded its power base, terrorized and murdered civilians, ignored even the most basic human rights, and acquiesced to death squad activities.

The ongoing abuses suffered by the Salvadoran people at the hands and weapons of the Salvadoran military grow to numerous to count and too ghastly to comprehend. The tragic murders of the Jesuit priests, their housekeeper, and her daughter has only been one of the more recent and one of the more widely publicized atrocities committed at the hands of the Salvadoran military. The time is growing increasingly urgent to send a strong and indisputable message that the United States will not support a military that considers itself above its own law. The Salvadoran military has never been held to account for all of the crimes of its members and even its leaders. This must end.

Ideally, Mr. Chairman, I would like to see all military aid to El Salvador stopped. As far as my constituents are concerned, the closer we get to the goal of no military aid to El Salvador, the better. We want to see peace in that country. But as long as the Salvadoran Government believes that we are willing to support their military activities indefinitely there will be no peace. We must show both the government and the FMLN that we are serious when we say we want peace. We must show them that we mean for this never-ending cycle of cease-fires and broken negotiations to stop now.

It is clear that the Moakley-Murtha substitute will only strengthen the peace promoting provisions contained in the bill. The provisions outlined for receipt of aid clearly support the peace process and do not in any way hinder the Salvadoran Government. If the FMLN does not negotiate in good faith or resumes hostilities toward the government or toward the Salvadoran people, the aid will continue. This substitute does not encourage the FMLN to break the cease-fire.

As with the rest of the world, Central America is undergoing significant democratic changes. Many of the corners of Central America are being swept with a new, refreshing, democratic breeze. As with our military policy in Eastern Europe and throughout the world, it is time to rethink and restructure our political policy in Central America.

Mr. Chairman, this is the most opportune time to demonstrate to the Salvadoran military that we intend for them to change their ways and to do so with all due speed. With the changes occurring throughout the world and even in Central America we cannot—indeed we must not—continue to write the Salvadoran military a blank check to continue its horrendous crimes against its own people.

If we have any conscience at all, we must support the Moakley-Murtha amendment to send as strong a message as possible to the Salvadoran military that we don't just want a cease-fire, we intend the abuses and the war to cease permanently.

Mr. FAZIO. Mr. Chairman, I strongly support the Moakley-Murtha amendment to H.R. 4636, which will strengthen the provisions in the legislation relating to El Salvador and promote a negotiated settlement to that nation's ongoing civil war.

The need for a peaceful settlement in El Salvador continues. Ten years of civil war has

claimed more than 70,000 lives and graphic accounts of brutal and senseless murders continue. The unsolved and unpunished murders last year of six Jesuit priests, their housekeeper, and her daughter, highlight the need for a policy which will address these atrocities and bring peace to the Salvadoran people.

The Moakley-Murtha substitute offers a reasonable approach for a peaceful settlement to the Salvadoran civil war. It provides strong incentives to both the Salvadoran military and the FMLN to stop the killings and prod the negotiations forward. It will strengthen the hand of those who want successful negotiations and weaken those who are not willing to seriously negotiate a settlement. Violence will be curtailed by both sides by either restoring or completely eliminating all aid on the basis of specific actions by the FMLN and the Salvadoran military.

We need to act now to encourage negotiations for a cease-fire and lay the foundation for democratic and judicial reforms that will bring all Salvadorans into the political process. Clearly the unconditional aid given in previous administrations to El Salvador has not reduced the violence and has not led to peace. The Moakley-Murtha amendment represents a viable solution to bringing about peace. I urge my colleagues to support this amendment.

Mr. CONTE. Mr. Chairman I rise in support of the Moakley-Murtha amendment. In the last 10 years, El Salvador has held six elections.

Three Salvadorans have held the presidency—the last two elected freely and fairly. We have seen some progress on rural land reform. The FMLN has cut back its demands in the peace talks to a point where almost everyone agrees that a negotiated peace is possible.

So I cannot agree when people say our policy has completely failed.

But it has failed to bring reform to the Salvadoran military.

The officer corps remains accountable neither to the President nor to the law, and if there is ever to be peace and true democracy in El Salvador, that must change.

Colonel Benavides, accused of ordering the murder of six Jesuit priests and two women at the University of Central America, spends most of his time in a cushy apartment and even made a vacation trip to the beach.

The military command "punished" a colonel accused of organizing a kidnapping ring by transferring him to the Salvadoran Embassy in Honduras.

A judge this month dropped charges against soldiers—accused of the unprovoked murder of 10 peasants at San Sebastian in 1988 despite the work our Ambassador has done to get a conviciton.

Mr. Speaker, this has got to stop.

And over the last 6 months, the deadlocked investigation of the killings at the University of Central America—the failure to punish the criminals who massacred teachers, who killed six peaceful men of God and an innocent mother and child—has convinced me that our current policy can't stop it.

The Moakley-Murtha amendment is not a radical amendment, nor is it an attempt to wash our hands of El Salvador's problems.

It is a positive incentive for military reform, for an end to disappearances and murder by the radical left or the death-squad right, and for negotiations in good faith.

It is an attempt to stop human rights abuses—rebel offensives and attempts to overthrow the government by violence.

It is a statement of support for Salvadorans of all political persuasions who want to end the war and sort out their differences in peace.

It has the support of President Duarte's Christian Democratic Party and the Archbishop of San Salvador.

I hope it will have the support of this House as well. Listen to the voice of America's Jesuit community before you vote.

Listen to my dear friend Father Donald Monan, the president of Boston College, when he asks us to heed the message of the killing at the university. I urge a vote for the Moakley-Murtha amendment.

Mr. GREEN. Mr. Chairman, with a population of less than 6 million people, El Salvador is the fifth largest recipient of United States aid. Despite $4.5 billion in American aid to El Salvador over the past decade, a bitter civil war continues to torment the people of that nation. Extremists on both the far left and far right have been guilty of committing terrible and indiscriminate violence against innocent civilians, and over 70,000 lives have been lost—among them teachers, priests, nuns, union members, students, and peasants.

Our money has not brought peace to El Salvador. The civil war is stalemated, and it appears that neither side is capable of a military victory. In February, Gen. Maxwell Thurmond, head of the U.S. Southern Command, testified before the Senate Armed Services Committee that the Salvadoran Army would not be able to achieve a military victory over the FMLN. The administration accepts that conclusion. On the other side, last November's FMLN offensive showed the rebels unable to launch a successful insurrection. The civilian population remains trapped in the middle.

I strongly supported President Duarte, and I hope that President Cristiani will follow in his path. However, our current policy of providing abundant military aid to El Salvador has not been successful in building democracy. Just as the eighties began in El Salvador with the murder of Archbishop Romero, so the decade ended with the savage murders of six Jesuit priests, their housekeeper, and her child last November. During the past decade, the Salvadoran judiciary has failed to prosecute anyone for the murder of Archbishop Romero. While eight members of the Salvadoran military have been arrested for their involvement in the Jesuit murders, there has been little significant progress made toward bringing to trial the authors of that senseless attack. Certainly one has to question the effectiveness of our 10-year assistance program to a military capable of killing religious workers.

With United States support, the Salvadoran military forces have grown in number from 14,000 to 52,000 over the last decade. In El Salvador, the military operate beyond the rule of law and are the perpetrators of serious human rights violations. Not one Salvadoran military officer has ever been convicted of a major human rights crime, despite extensive documentation. And yet, as noted previously, despite the size and power of the Salvadoran military, the civil war remains deadlocked. That situation is too costly for the American taxpayer to support, and too ruthless for the citizens of El Salvador to endure.

Both sides in the Salvadoran conflict have dealt brutally with civilians. I abhor the violence perpetrated by the FMLN, and condemn strongly their past tactics which have included assassination of democratically elected officials and violence against civilian noncombatants. Congress must push both parties in the Salvadoran conflict to develop a negotiated settlement as quickly as possible, and to respect a ceasefire.

Fortunately, earlier this month peace negotiations began between the FMLN and the Government of El Salvador under the auspices of the United Nations Secretary General's office. Today Congress has an opportunity to support that important effort by enacting the Moakley-Murtha plan, which provides incentives to keep both the Salvadoran military and the FMLN at the negotiating table.

The Moakley-Murtha proposal withholds 50 percent of our military assistance for fiscal years 1990 and 1991, with a transfer of the withheld aid to humanitarian assistance for El Salvador at the end of each fiscal year. The plan further provides both sides with a series of incentives to negotiate, and create disincentives for any attempts by either side to break off or delay the peace talks.

Specifically, the Moakley-Murtha proposal triggers the additional military assistance if the FMLN is engaged in assassinating or abducting civilian noncombatants, or is engaging in other acts of violence directed at civilian targets. On the other hand, the plan eliminates military assistance if the military or security forces of El Salvador are assassinating or abducting civilian noncombatants, or are engaging in other acts of violence directed at civilian targets. The plan strengthens civilian control over military by requiring the prior approval of the President of El Salvador before military assistance may be delivered to the Armed Forces.

Finally, the Moakley-Murtha plan earmarks not less than $2 million for the Support Democracy Program authorized in the bill for registration, campaign, and election monitoring. In a few months, electoral campaigning will begin in El Salvador. The campaign season will culminate in March 1991 with mayoral and legislative assembly elections. Congress was instrumental in ultimately saying "No" to war in Nicaragua, paving the way for elections. Today we have a chance to encourage that same process to begin in El Salvador.

For 10 years the United States has supported a military solution to El Salvador's civil conflict. That approach has failed. The United Nations Secretary General's efforts to find a negotiated solution in El Salvador may not succeed unless real pressures are exerted on the Salvadoran military and the FMLN to accept concessions that are not in their institutional interests. I urge my colleagues to support the peace process in El Salvador and vote yes on Moakley-Murtha.

Mr. BRENNAN. Mr. Chairman, I rise today in strong support of H.R. 4636 and in strong support of the Moakley-Murtha amendment.

Since 1980, we have sent more than $4 billion to El Salvador, in our attempt to support the Duarte and Cristiani governments.

The decade began with the assassination of Archbishop Romero. It continued with years of civil war, and thousands of civilian casualties.

And the decade ended, tragically, with the barbaric killing of six Jesuit priests, their housekeeper, and her daughter.

Last November, I wrote to President Bush, asking him to use the entire diplomatic weight of the United States to press for an immediate cease fire, and for an immediate investigation of the murders. One hundred and twenty-four of you joined me in that letter, and we have written many such letters in the last decade.

But what have we gained, after 10 years, $4 billion, and uncounted letters, speeches, and petitions?

True, we have preserved a legitimately elected government, a nominal democracy. But the cost has been great. Thousands of innocents have paid with their lives; the investigation of Jesuit killings has slowed to a standstill; and a corrupt army, an army in which 14 of 15 leading officers have commanded troops accused of serious human rights abuses, threatens the stability of the state, and the lives of the citizens it should be protecting.

The bill before us is a fair one. It cuts remaining military aid for fiscal 1990 by 50 percent, and cuts fiscal 1991 military aid by the same amount.

However, the bill, especially with passage of the Moakley-Murtha amendment, provides safeguards for both the Salvadoran Government, and Salvadoran citizens.

If the FMLN threatens the existence of the government, or fails to negotiate in good faith, aid will be restored.

On the other hand, if the army stages a coup, or the investigation of murder of the Jesuits stalls, all military funds may be cut off, and turned into humanitarian aid.

Mr. Chairman, this bill, and the Murtha-Moakley amendment, offer real incentives for both the FMLN and the Cristiani government to negotiate in good faith.

We in the Congress must learn the lesson taught by 10 years of killings and atrocities by both sides: that continued funding of the Salvadoran Army, without constraints, leads to death: death of priests, death of untold numbers of civilians, and the death of justice in El Salvador.

I urge my colleagues to support this bill to promote peace in El Salvador.

Mr. MATSUI. Mr. Chairman, I join my colleagues in vehemently supporting the Moakley-Murtha substitute.

There is an argument that has been furthered today on the floor that I find difficult to understand. It is the notion that a cessation or reduction of military aid to El Salvador will somehow fuel the war in El Salvador. It is the idea that we as a nation should choose sides in the war in El Salvador based on which side has killed more people or even which side is justified in its killing.

I believe the argument before us is more basic than that. It comes down to this: Should the Government of the United States be a benefactor to military atrocities? Should we aggravate a battle that has already killed tens of thousands of innocent people? Should we aid the war or should we support peace?

The question is not whether or not we should tolerate atrocities by the FMLN. Atrocities are unsupportable regardless of the perpetrator. But it is important that we make a distinction here. We do not fund FMLN atrocities; we do monetarily support the butchery of the Salvadoran military. The disappearances and murders have not ended since the six Jesuits were killed. They continue.

It is time for this Congress and this Nation to take a stand against the abominations of the Salvadoran military. The message must be sent that if the military insists on continuing death squad activity, it will do so without the funding and implicit approval of the U.S. Government.

It is time to accept the fact that there will be no consolidation of political progress in El Salvador by military means. Ask the people of El Salvador what they want from the United States. Military suppression of the FMLN rebels? A toppling of the elected government? No. They want economic growth. They want jobs. They want hope for their future and the future of their children. The military solution to this conflict does not represent the politics of hope, it is the politics of despair.

The aid we have provided El Salvador in the 1980's almost triples that of any other Central American country, yet the country's economic progress lags behind nearly every country in the region. Why? Because our money has not gone to bring the country into the world economic community, but rather to persecute its own people. Despite over $2 billion in military aid since 1980, the Salvadoran military is nowhere near achieving a military or political victory.

Let me make clear that the time for demanding decency in terms of human rights or political liberty is long past. This cut in aid as a means for providing leverage for reform is a day late and a dollar short. But in terms of preserving our own honor in the international community, a conditional cut at the very least is absolutely essential. Moreover, at a time when we are witnessing tangible progress toward a peace process between the combatants in El Salvador, we should not jump-start the war process.

Mr. Chairman, the winds of political change which have swept through Eastern Europe have not reached El Salvador. American dollars are at least partly to blame for that. The Moakley-Murtha substitute offers us hope for political change. By divesting ourselves of the war in El Salvador we will be investing in the hope for a better future in that country. I urge my colleagues to support the substitute.

Mr. OWENS of Utah. Mr. Chairman, over the last decade, the United States has given more than $4 billion in foreign assistance to El Salvador. This aid, intended to protect an elected government and vulnerable democratic institutions from a Communist insurrection, has instead become part of the problem. We have become part of the problem.

Instead of fostering a process of political reconciliation, we have created an environment in which the Salvadoran Armed Forces can abuse human rights with impunity, while claiming to seek an elusive, impossible, military victory over the FMLN. Instead of strengthening democratic institutions, promoting judicial and agrarian reform, we have empowered the military at the expense of the civilian government. We have given the "tandona", 12 military commanders, the tools to subvert the very democracy which we seek to support.

The November murders of six Jesuit priests, their cook, and her daughter at the University of Central America reflect grievous and deeply rooted problems with the Salvadoran military and judicial system. As the Moakley task force on El Salvador reported, this investigation represents the Salvadoran justice system at its very best. Yet, the investigation has ground to a standstill, crucial evidence has been lost, and all those now charged with a crime might not have been arrested had an American military officer not provided incriminating testimony.

The horror of the Jesuit murders, of Archbishop Romero's brutal assassination, and countless other human rights abuses is compounded by the criminal negligence, the utter impotence, of the Salvadoran justice system. To continue ignoring this misconduct is to condone it, as we have done in the past with unconditional military assistance.

The provisions contained in the Moakley-Murtha substitute offer strong incentives for both sides of the conflict to negotiate in good faith, and to discontinue patterns of violence which victimize the innocent. This is timely and appropriate action, and I strongly urge your support.

Mr. LIGHTFOOT. Mr. Chairman, I previously supported many of the provisions contained in this legislation when the appropriation measure was passed by the House as H.R. 4404. However, several additions to the legislation prevent me from supporting the version before us today. I would like to take this opportunity to explain my concerns with the package we are debating today.

I voted for H.R. 4404 because I believe it is important to provide assistance to Panama and Nicaragua. We have an obligation to aid in repairing the economies of those countries. I also was supportive of providing additional funding for veterans' medical programs. Providing for the needs of our Nation's veterans cannot be neglected.

However, I have particular concerns about the amendment before us today known as the Studds-Solarz amendment. Like my colleagues, I have grave concerns about the state of affairs in El Salvador. I agree changes must be made in that country's human rights record. The abuses of the military must be brought to a halt and the murderers of the Jesuits must be brought to justice. I also agree the basic needs of the Salvadoran people must be met. We have provided millions of dollars in aid to that country which do not appear to have been well spent.

I have talked with many different people and gathered information on all sides of this issue to obtain the best understanding possible of the conflict in El Salvador.

We are at a critical juncture in Central America. Events in Nicaragua have taken a positive turn, and the Salvadoran Government and FMLN are engaging in United Nations brokered negotiations for a peaceful settle-

ment to the civil war. Incentives must be present for both sides to negotiate in good faith. There have been allegations on both sides of human rights abuses, violence, and lack of good faith in negotiations. At the moment we have a precarious balance which we do not wish to be upset.

As some people may be aware, I supported House Concurrent Resolution 236 passed by the House of Representatives last fall calling upon the Government of El Salvador to resume peace talks and prosecute those responsible for the murder of the six Jesuit priests. I also signed a letter to President Cristiani to insist on a timely investigation into the murders of the Jesuits.

Last year Congress voted in H.R. 2939 to limit military aid to El Salvador to $85 million, down from the $97 million requested by the administration. This is only about 20 percent of the $315 million provided to the country of El Salvador in the form of economic and development assistance. In light of the tremendous damage caused by the FMLN to El Salvador's economy—over 2 billion dollars' worth in the past decade—657 attacks to power lines and stations in 1989 alone caused repairs costing $8 million and $5 million in lost revenues—the economic assistance we provide has been desperately needed. I find it very frustrating that foreign aid must be used to assist in repairing existing facilities when El Salvador's people have so many other basic needs. I understand the FMLN blew up roughly 15 power structures a day during its November offensive.

Last year's legislation also contained a number of restrictions on military aid. It required the President to report semiannually on the progress on achieving a political settlement to the conflict, and it withheld $5 million in military aid until the President reports that the Salvadoran Government has pursued all avenues to prosecute those responsible for the murder of land reform specialists in 1981 as well as the massacre of 10 peasants in 1988, among other restrictions.

This was only the most recent effort by Congress to attach conditions on continued aid to El Salvador. Conditions on aid were also passed by Congress in 1981, 1983, and 1984 and subsequent years. These restrictions appear to have had little effect on conditions in El Salvador.

The question we are facing is what action can be taken to reduce human rights abuses and financial misuse of United States aid of the Salvadoran military while improving the economic conditions for the residents of El Salvador. The aid restrictions we are considering today are one option we have for addressing these problems.

We have seen a change in United States Government policy toward El Salvador. Unlike the previous administration, the Bush administration has taken a stand in support of a negotiated settlement, as it does not appear either side can gain a clear military advantage in this 10-year-old civil war. At the same time, the administration has asked for time to work out a compromise on policy toward El Salvador. I am disappointed members of the House Foreign Affairs Committee are pushing forward with aid restrictions before a compromise has been reached with the administration. The administration asked for time to reach a bipartisan agreement and this request has not been honored.

Furthermore, there are no guarantees a cutoff of military aid will lessen hostilities, let alone stop the war. In fact, I have concerns it may send the wrong signal to the FMLN to step up its insurgency if it appears the United States Government is less likely to come to the aid of the Salvadoran Government. In fact, with U.N. negotiations about to begin, the FMLN on May 2 attacked the presidential palace and home of the minister of public works, casting doubts once again about the sincerity of the FMLN in reaching a negotiated settlement. In addition, with Violetta Chamorro's announcement that she will permit the FMLN's support offices in Managua to remain open, there is further cause for concern.

As I stated earlier, I agree changes in our policy must be made. Better accountability of military expenditures should be required. But I am disturbed by the way this package is being forced upon us today without greater effort to arrive at a bipartisan policy approach. This package is, in my view, ill-timed. I will not rule out the possibility of supporting altered policy or further restrictions on military aid to El Salvador in the future. I simply cannot support this particular proposal at this particular moment. I believe the conditions at the moment are too fragile to jeopardize and I believe this administration is well-intentioned and should be given the benefit of the doubt in its willingness to work with Congress to find the best approach to our policy toward El Salvador.

Mr. DORNAN of California. Mr. Chairman, do not break that gavel. It is hurting my right ear.

Mr. Chairman, I come back to the well of this distinguished Congress again because, to quote the great modern philosopher, Yogi Berra, "It's deja vu all over again."

We have gone through this debate now so many times on this poor area of Central America. What are we learning in the majority about the intrinsic evil of communism? Apparently nothing.

The Berlin Wall came down on November 9. That sent a message to Africa, Central America, and most of the world, that the East Germans would not be running the Secret Security Police teaching Communists around the world how to set up police states and torture people.

Then we see Gorbachev with one problem after another, so people in Nicaragua and in the Farabundo Marti Communist guerrilla movement figured out that the arms pipeline was going to be choked off from Moscow. This left reliance on Castro alone, hence these surface-to-air missiles that, God forbid, may have been used to shoot down some airliner in Central America. God forbid that it be an Air Force airplane with a congressional delegation on it, because then we will start to hear the proper tough talk from the majority side of the aisle on the Communist terrorists in El Salvador.

Some 28 mayors have been killed by the FMLN Communists in El Salvador and there has been little outcry in the United States media.

Now, a Catholic priest was killed, a former Jesuit, laicized properly, an elderly gentleman 74 years of age named Francisco Pecarrini. He was murdered at noon, exactly the stroke of noon. People were listening to the angelus in San Salvador.

He also was an American citizen, not just a Salvadoran citizen. He was murdered on the ides of March, March 15, 4 days before the election, and it got zero to little press coverage in the United States of America.

With all the mayors that were killed down there, in addition to Professor Pecarrini who taught at Long Beach State College, why have we been so selective in our morality? I repeat, the slaughter, the massacre of the Jesuits at Central American University was an abhorrent, to say the word, human rights violation does not quite cover it. It was like the murder of the nuns back in December of 1980. It cries out for justice, but the justice system has been fractured in El Salvador by Communists assassination and terror from the Farabundo Marti gangsters.

We are saying in the Byron amendment that if the Government down there does certain things, and they have incentives to do this under the threat that we will hold back a quarter of the aid, contingent upon this good behavior, we will not send signals to the Communists that they are going to run the show at the negotiations.

Does anybody here remember Panmunjom, 2 years in Korea arguing over the shape of a table?

Why are we making ourselves beholden to the FMLN who have blood all over their hands from assassinating people up and down that country, this tiny little country, the smallest country with the highest population, equal in density to Massachusetts in all of Central America. The siege in El Salvador is now in its 11th year. Are we going to put ourselves in the position where the good behavior of the FMLN will determine when the Government gets the other 50 percent of the aid?

Do you know why the FMLN offensive ended and when it did? It ended on December 20. Do you know why it ended that day? Because the 82d Airborne was bailing out over Panama and the FMLN got the message. The rumors were flying around that the 82d may put a stop in on El Salvador on the way back. The Communists countered that with a rumor that Daniel Ortega had a troopship with 5,000 of the Sandinistas' finest troops ready to head up to El Salvador and battle the 82d Airborne.

The Farabundo Marti are morally bankrupt. They are assassins. They are terrorists. They are urban terrorists. I do not want to hook what we do in this House into what they do.

Mr. DORNAN of California. Mr. Chairman, I apologize in advance for the archaic rules of the House. One of these days we will get modern and you will have a monitor under your desk where you can see what we are showing on the floor, and these cameras will be allowed, as with any studio in the world, including Romania, to come in close. Then you will be able to see what we are talking about here and can track the debate, and all those who follow the debate through you, Mr. Chairman, will understand what we are looking at.

□ 1710

Here is the plane that crashed last November in El Salvador carrying in surface-to-air missiles supplied by Gorbachev, on one of his worst days, through Castro. Here is the flight log of the airplane with the base that it took off from inside Nicaragua. We have this thanks to the fabulous inauguration of Violeta Chamorro, the first lady President of the Western Hemisphere—and that includes the Aztec and Inca Empires. Before she starves to death down there in Nicaragua, maybe we will get some aid to her without using the blackmail process the help the Communists in El Salvador.

There they are, all lined up, Soviet-made surface-to-air missiles. They are shoulder-held weapons meant to terrorize and tear apart the country of El Salvador and possibly shoot down civilian airliners.

Mr. Chairman, the Broomfield-Byron amendment does retain some sanity in this process. This is a bill that is 2 months late. I do not know why we have let the people twist in the wind down in Panama and in Nicaragua, using El Salvador as a blackjack. But finally we are going to get this bill through, and the Dreier-Gilman amendment which the President dearly needs can get money down there for education, housing, and sanitation in Panama, and the Broomfield-Byron amendment will put some pressure on the government in El Salvador, without giving the wrong messages to the remaining Communist insurgency that is terrorizing, executing, and assassinating people in that little beleaguered country of El Salvador.

I went down there with Chairman MOAKLEY, a gentleman whom I greatly respect, and he knows I mean that sincerely.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has expired.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 additional minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I went down there with Mr. MOAKLEY. It was a group of 15. It was initially going to be all democrats, and through the pleadings of the leadership on our side, Mr. MOAKLEY, being a gracious and fair gentleman, added five Republicans.

Now, there were some things down there that we could not interest the majority Members in doing, like visiting the home of Jennifer Casolo, the so-called church worker who had all these arms buried in her backyard. We have pictures of that, and I hope the Members will have a chance to look at those later here. But we could not interest anybody other than the five Republicans to go over to Jennifer Casolo's house.

But this is what really surprised me. When Mr. DREIER gets up to speak, he will show us a load of armaments captured. We met with the man who blew the whistle on this shipment, a Communist guerrilla from the insurgency named Mario. We met with him in one of the prisons. He is now talking a blue streak because he feels, without a secure situation down there, he will be the subject of an assassination. Yet we could not interest anybody on the majority side to hear the other side of the story in El Salvador.

The Broomfield language does what I want to see done in the name of the Jesuits. I was Jesuit-educated in all my high school years. I went to my 40th reunion Saturday night. I talked to some of the Jesuit priests at Loyola High School in Los Angeles.

It was terrible to stand in El Salvador at Central American University on the spot where these priests of God of the Society of Jesus were brutally slaughtered with automatic weapons by enlisted men while officers stood off in the shadows and watched. One of them, Father Joaquin Pedro Lopez y Lopez, is a cousin of the Ambassador of El Salvador to the United States. He was a dedicated priest who did not have anything to do with politics, ever. He was just interested in helping the poor. It is not that the others deserved to die in this horrible slaughter, but they were involved in varying degrees in politics.

I want to see justice done. But I ask the Members to consider this. Israel gets $3 billion a year, and I voted for every nickel of that.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has again expired.

Mr. SOLOMON. Mr. Chairman, I yield 1 additional minute to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, Israel gets $3 billion a year and El Salvador gets $300 million, only one-tenth of what Israel gets.

There was a terrible slaughter, a human rights violation in Gaza two days ago perpetrated by a man who is undergoing tests for his sanity. He killed 8 people. The Israeli government has apologized profusely, and Israelis are going in to give blood up and down the entire length of that small beleaguered country. This never happens when Arabs slaughter Israelis. Yassar Arafat, wherever he is hiding out, brags about any killings like that.

No one in Israel who has his sanity is suggesting that the act of this madman is a government plot, that this dishonorably discharged soldier was doing something at the government's bidding. But why is my opinion not correct on this Colonel Benevides, the officer accused in the Jesuit slaughter in El Salvador? His son had just come down with a paralyzing, debilitating disease, and he misunderstood his orders. Why am I not entitled to my opinion? I am as good an investigator as any one of the other 14 Congressmen down there. So maybe it goes no higher, and maybe there is no authorship higher than Colonel Benevides in the government. The message we are all giving to the Government down there is to pursue this case and we will not cut off aid, but we will get their attention with the Broomfield amendment.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MOAKLEY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 163, not voting 19, as follows:

Text of amendment offered by Mr. MOAKLEY of Massachusetts and the recorded vote on this amendment to H.R. 4636 to authorize supplemental economic assistance for fiscal year 1990 to support democracy in Panama and Nicaragua, and for other purposes.

AMENDMENT OFFERED BY MR. MOAKLEY

Mr. MOAKLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MOAKLEY:

Page 65, strike out line 10 and all that follows through line 11 on page 78 (title V of the bill) and insert in lieu thereof the following:

TITLE V—EL SALVADOR

SEC. 501. ASSISTANCE FOR EL SALVADOR.

(a) STATEMENT OF POLICY.—It shall be the policy of the United States—

(1) to support the Central American Presidents' Agreement of December 12, 1989, calling upon the Farabundo Marti National Liberation Front (hereafter in this section referred to as the "FMLN") to cease its hos-

tilities and renounce all types of violent actions that may directly or indirectly affect the civilian population of El Salvador;

(2) to support an active role for the Secretary General of the United Nations and the Secretary General of the Organization of American States in negotiations between the Government of El Salvador and the FMLN for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

(3) to review the level of military assistance for El Salvador on a periodic basis, taking into account both—

(A) the demonstrated willingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

(B) the actions of each side that affect the basic human rights of the Salvadoran people.

(b) INCENTIVES FOR PEACE: AMOUNTS OF MILITARY ASSISTANCE AVAILABLE FOR EL SALVADOR.—

(1) FISCAL YEAR 1990; CONDITIONAL WITHHOLDING OF HALF OF REMAINING MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1990 that are unexpended on the date of enactment of this Act shall be withheld from expenditure for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

(2) FISCAL YEAR 1991.—

(A) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—The amount allocated for military assistance for El Salvador for fiscal year 1991 may not exceed $85,000,000.

(B) CONDITIONAL WITHHOLDING OF HALF OF MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1991 shall be withheld from obligation for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

(C) TRANCHING OF ASSISTANCE.—Not more than half of the amount allocated for military assistance for El Salvador for fiscal year 1991 that is not being withheld from obligation pursuant to subparagraph (B) may be obligated before March 1, 1991. In order to provide time for congressional review of the report required to be submitted on that date by subsection (g), funds that become available for obligation under this subparagraph as of that date may not be expended during the 30-day period beginning on that date.

(3) USE OF FUNDS IF DETERMINATION REGARDING FMLN NOT MADE.—

(A) DEVELOPMENT ASSISTANCE.—At the end of fiscal year 1990 and at the end of fiscal year 1991, the President shall transfer any military assistance funds then being withheld pursuant to paragraph (1) or paragraph (2)(B) to appropriations accounts for development assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following) for use in providing assistance for child nutrition, health, housing, education, or other programs serving the basic human needs of the people of El Salvador. Funds so transferred shall remain available until expended notwithstanding any other provision of law. Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) applies with respect to the obligation of any funds so transferred.

(B) EXCEPTION.—Notwithstanding subparagraph (A) and paragraph (1), fiscal year 1990 funds withheld from expenditure pursuant to paragraph (1) may be used for cancellation expenses for military assistance programs for El Salvador, so long as such use does not result in the delivery of any military assistance to El Salvador.

(4) TERMINATION OF MILITARY ASSISTANCE.—If the President submits to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), all military assistance for El Salvador for fiscal year 1990 and fiscal year 1991 shall be terminated, including deliveries of previously obligated military assistance. All military assistance shall be terminated pursuant to this paragraph without regard to whether a report is submitted containing the determination regarding the FMLN described in subsection (c).

(5) RESUMPTION OF MILITARY ASSISTANCE.—If, after submitting to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), the President finds that the facts giving rise to that determination no longer prevail, the President may submit to the Congress a report describing the reasons for such finding. If the President submits such a report under this paragraph, military assistance for El Salvador may be resumed, subject to the requirements of this section.

(c) CONDUCT OF THE FMLN RESULTING IN A RELEASE OF WITHHELD ASSISTANCE.—The determination described in this subsection is a determination by the President that—

(1) the representatives of the FMLN—

(A) are declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict in El Salvador, or

(B) are rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

(2) the United States Government has proof that the FMLN is continuing to acquire or receive significant shipments of lethal military equipment from outside El Salvador, and this proof has been shared with the Congress;

(3) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN; or

(4) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.

(d) CONDUCT OF THE GOVERNMENT OF EL SALVADOR RESULTING IN A TERMINATION OF ASSISTANCE.—The determination described in this subsection is a determination by the President that—

(1) the duly-elected Head of Government of El Salvador has been deposed by military coup or decree;

(2) the Government of El Salvador is declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict, or is rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

(3) the Government of El Salvador is failing to conduct a thorough and professional investigation into, and prosecution of those responsible for, the 8 murders at the University of Central America on November 16, 1989; or

(4) the military or security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces.

(e) SUBMISSION OF REPORTS CONTAINING DETERMINATIONS.—The President may submit to the Congress at any time a report containing the determination regarding the FMLN described in subsection (c) or containing the determination regarding the Government of El Salvador described in subsection (d). If the President determines that any of the conditions described in subsection (c) or subsection (d) exist, the President shall immediately report that determination to the Congress.

(f) STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY.—In order to strengthen the control of the democratically elected civilian government of El Salvador over the armed forces of that country, military assistance for fiscal year 1991 may be delivered to the armed forces of El Salvador only with the prior approval of the President of El Salvador.

(g) REPORTS ON SITUATION IN EL SALVADOR.—Thirty days after the date of enactment of this act and on March 1, 1991, the President shall submit to the Congress a report describing—

(1) the willingness or unwillingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador;

(2) the status of the negotiations;

(3) the criteria that the President will use in deciding whether to make the determinations described in subsections (c) and (d) with respect to negotiations and other issues; and

(4)(A) any actions of the Government of El Salvador (including the armed forces) and the FMLN that are having an adverse impact on the basic human rights of the Salvadoran people;

(B) progress made by the Government of El Salvador toward—

(i) the establishment of an effective judicial system, including the establishment of an independent, civilian investigative service;

(ii) ensuring freedom of the press and assembly; and

(iii) military reform, including the establishment of an officer promotion system based on merit and professional competence, respect for human rights, and respect for civilian control over the armed forces;

(C) the effects on the civilian population of El Salvador of economic sabotage and other acts of violence committed against civilian targets by the FMLN; and

(D) the status of investigations into the politically motivated murders of prominent political, religious, labor and other officials in recent years, and the extent to which the armed forces of El Salvador and the FMLN are each cooperating in those investigations.

(h) SUPPORT FOR DEMOCRACY PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador. The program shall be designed to—

(A) assist and involve all prodemocratic sectors in El Salvador in efforts to strengthen civilian control over the armed forces;

(B) establish an effective judicial system;

(C) facilitate the free and open exchange of political views;

(D) provide for monitoring and other activities in support of free and fair elections; and

(E) increase respect for basic civil and human rights.

(2) ELECTION MONITORING.—Of the amount made available to carry out this subsection, not less than $2,000,000 may be used only for support for monitoring the 1991 municipal and National Assembly elections in El Salvador, and for monitoring the registration and campaign processes leading up to those elections, by appropriate organizations such as Secretary General of the United Nations, the Organization of American States, the Carter Center, the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the Center for Electoral Assistance and Promotion (CAPEL) of San Jose, Costa Rica.

(3) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated $10,000,000 for fiscal year 1991 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(i) EXPEDITED CONGRESSIONAL REVIEW PROCEDURES.—

(1) DEFINITIION OF PRIVILEGED JOINT RESOLUTION.—For purposes of this subsection, the term "privileged joint resolution" means a joint resolution—

(A) which—

(i) in the case of the House of Representatives, is reported by the Committee on Foreign Affairs, and

(ii) in the case of the Senate, is reported by the Committee on Foreign Relations,

during the 30-day period beginning on March 1, 1991;

(B) which would place conditions or limitations, or both, on expenditures of military assistance funds for El Salvador for fiscal year 1991;

(C) which does not contain any provision which is not germane to the conditions and limitations provided for in the joint resolution; and

(D) the title of which is as follows: "Joint resolution relating to military assistance for El Salvador for fiscal year 1991.".

(2) MOTION FOR FLOOR CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) after the day on which a privileged joint resolution is reported by the Committee on Foreign Affairs or the Committee on Foreign Relations (as the case may be), it shall be in order (even though a previous motion to the same effect has been disagreed to) for the chairman of that committee (or his designee) to move to proceed to the consideration of that joint resolution. In the House of Representatives the motion shall be that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution. The motion may be made in the Senate notwithstanding any rule or precedent of the Senate, including Rule 22. All points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed to the consideration of the joint resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to by a House of Congress, that House shall immediately proceed to the consideration of the joint resolution without intervening motion, order, or other business, and that joint resolution shall remain the unfinished business of the respective House until disposed of.

(3) DEBATE TIME.—Debate on a privileged joint resolution, and on all debatable motions and appeals in connection therewith (other than amendments made in order in the House of Representatives under paragraph (4) and a motion to recommit in the House under paragraph (7)), shall be limited to not more than 4 hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion further to limit debate is in order and not debatable.

(4) AMENDMENTS IN THE HOUSE OF REPRESENTATIVES.—Amendments to a privileged joint resolution shall be in order, and shall be debatable, in the House of Representatives to the extent ordered by the House.

(5) AMENDMENTS IN THE SENATE.—Amendments to a privileged joint resolution are not in order in the Senate.

(6) CERTAIN MOTIONS NOT IN ORDER.—A motion to postpone or to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which a privileged joint resolution is agreed to or disagreed to is not in order.

(7) FINAL PASSAGE IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, at the conclusion of debate on a privileged joint resolution and consideration of any amendments made in order to the joint resolution, the Committee of the Whole shall rise and report the resolution back to the House, and the previous question shall be considered as ordered on the joint resolution, with any amendments adopted in the Committee of the Whole, to final passage without intervening motion except one motion to recommit.

(8) FINAL PASSAGE IN THE SENATE.—In the Senate, immediately following the conclusion of the debate on a privileged joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

(9) APPEALS FROM DECISION OF THE CHAIR NOT DEBATABLE IN THE SENATE.—Appeals in the Senate from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a privileged joint resolution shall be decided without debate.

(10) CONGRESSIONAL RULEMAKING POWERS.—This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a privileged joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(j) DEFINITION OF MILITARY ASSISTANCE.—For purposes of this section, the term "military assistance" means assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the foreign military financing program) or under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program).

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MOAKLEY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 163, not voting 19, as follows:

[Roll No. 127]

AYES—250

Ackerman	Dymally	Lehman (CA)
Anderson	Dyson	Lehman (FL)
Andrews	Early	Levin (MI)
Annunzio	Eckart	Levine (CA)
Anthony	Edwards (CA)	Lewis (GA)
Applegate	Engel	Long
Aspin	Erdreich	Lowey (NY)
Atkins	Espy	Luken, Thomas
AuCoin	Evans	Machtley
Bates	Fascell	Manton
Beilenson	Fazio	Markey
Bennett	Feighan	Martinez
Bereuter	Flake	Matsui
Berman	Foglietta	Mavroules
Bevill	Ford (MI)	Mazzoli
Bilbray	Ford (TN)	McCloskey
Boehlert	Frank	McDermott
Boggs	Frost	McGrath
Bonior	Gaydos	McHugh
Borski	Gejdenson	McMillen (MD)
Bosco	Gephardt	McNulty
Boucher	Gibbons	Mfume
Boxer	Gilman	Miller (CA)
Brennan	Glickman	Miller (WA)
Brooks	Gonzalez	Mineta
Browder	Gordon	Moakley
Bruce	Grandy	Mollohan
Bryant	Gray	Moody
Bustamante	Green	Morella
Callahan	Guarini	Morrison (CT)
Campbell (CA)	Hall (OH)	Morrison (WA)
Campbell (CO)	Hamilton	Mrazek
Cardin	Harris	Murphy
Carper	Hayes (IL)	Murtha
Carr	Hayes (LA)	Nagle
Chandler	Hefner	Natcher
Chapman	Henry	Neal (MA)
Clarke	Hertel	Neal (NC)
Clay	Hochbrueckner	Nowak
Clement	Horton	Oakar
Coleman (TX)	Hoyer	Oberstar
Collins	Hubbard	Obey
Condit	Hughes	Olin
Conte	Jacobs	Ortiz
Conyers	Johnson (SD)	Owens (NY)
Costello	Johnston	Owens (UT)
Coughlin	Jones (GA)	Pallone
Coyne	Jones (NC)	Panetta
Crockett	Jontz	Pashayan
de la Garza	Kanjorski	Patterson
DeFazio	Kaptur	Payne (NJ)
Dellums	Kastenmeier	Payne (VA)
Derrick	Kennedy	Pease
Dicks	Kennelly	Pelosi
Dingell	Kildee	Penny
Dixon	Kleczka	Perkins
Donnelly	Kolter	Pickle
Dorgan (ND)	Kostmayer	Poshard
Downey	LaFalce	Price
Durbin	Lantos	Pursell
Dwyer	Leach (IA)	Rahall

Rangel	Sikorski	Udall
Regula	Skaggs	Unsoeld
Richardson	Slattery	Upton
Ridge	Slaughter (NY)	Valentine
Rinaldo	Smith (FL)	Vento
Roe	Smith (IA)	Visclosky
Rose	Smith (VT)	Volkmer
Rostenkowski	Solarz	Walgren
Roukema	Spratt	Walsh
Rowland (GA)	Staggers	Washington
Roybal	Stallings	Waxman
Russo	Stark	Weiss
Sabo	Studds	Weldon
Sangmeister	Swift	Wheat
Savage	Synar	Whitten
Sawyer	Tanner	Williams
Scheuer	Tauke	Wise
Schneider	Taylor	Wolpe
Schroeder	Torres	Wyden
Schumer	Torricelli	Yates
Serrano	Towns	Yatron
Sharp	Traficant	
Shays	Traxler	

NOES—163

Archer	Hefley	Quillen
Armey	Herger	Ravenel
Baker	Hiler	Ray
Ballenger	Hoagland	Rhodes
Bartlett	Holloway	Ritter
Bateman	Hopkins	Roberts
Bentley	Houghton	Rogers
Bilirakis	Huckaby	Rohrabacher
Bliley	Hunter	Ros-Lehtinen
Broomfield	Hutto	Roth
Brown (CO)	Hyde	Rowland (CT)
Buechner	Inhofe	Saiki
Bunning	Ireland	Sarpalius
Burton	James	Saxton
Byron	Jenkins	Schaefer
Clinger	Johnson (CT)	Schiff
Coble	Kasich	Schuette
Coleman (MO)	Kyl	Schulze
Combest	Lagomarsino	Sensenbrenner
Cooper	Lancaster	Shaw
Courter	Laughlin	Shumway
Cox	Lent	Shuster
Crane	Lewis (CA)	Sisisky
Dannemeyer	Lewis (FL)	Skeen
Darden	Lightfoot	Skelton
Davis	Lipinski	Slaughter (VA)
DeLay	Livingston	Smith (NE)
DeWine	Lloyd	Smith (NJ)
Dickinson	Lowery (CA)	Smith (TX)
Dornan (CA)	Madigan	Smith, Robert (NH)
Douglas	Martin (IL)	Smith, Robert (OR)
Dreier	Martin (NY)	Snowe
Duncan	McCandless	Solomon
Edwards (OK)	McCollum	Spence
Emerson	McCrery	Stangeland
English	McCurdy	Stearns
Fawell	McDade	Stenholm
Fields	McEwen	Stump
Frenzel	McMillan (NC)	Sundquist
Gallegly	Meyers	Tallon
Gallo	Michel	Tauzin
Gekas	Miller (OH)	Thomas (GA)
Geren	Molinari	Thomas (WY)
Gillmor	Montgomery	Vander Jagt
Gingrich	Moorhead	Vucanovich
Goodling	Myers	Walker
Goss	Nielson	Weber
Gradison	Oxley	Whittaker
Grant	Packard	Wilson
Gunderson	Parker	Wolf
Hall (TX)	Parris	Wylie
Hancock	Paxon	Young (AK)
Hansen	Petri	Young (FL)
Hastert	Pickett	
Hatcher	Porter	

NOT VOTING—19

Alexander	Hammerschmidt	Robinson
Barnard	Hawkins	Smith, Denny (OR)
Barton	Kolbe	
Brown (CA)	Leath (TX)	Stokes
Craig	Lukens, Donald	Thomas (CA)
Fish	Marlenee	Watkins
Flippo	Nelson	

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Marlenee against.

Mr. Barnard for, with Mr. Kolbe against.

Mr. Stokes for, with Mr. Craig against.

Mr. Hawkins for, with Mr. Thomas of California against.

Mr. SARPALIUS and Mr. BUECHNER changed their vote from "aye" to "no."

Messrs. WASHINGTON, CHANDLER, and McMILLEN of Maryland changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 2058

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Marlenee against.

Mr. Barnard for, with Mr. Kolbe against.

Mr. Stokes for, with Mr. Craig against.

Mr. Hawkins for, with Mr. Thomas of California against.

Mr. SARPALIUS and Mr. BUECHNER changed their vote from "aye" to "no."

Messrs. WASHINGTON, CHANDLER, and McMILLEN of Maryland changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. AuCoin, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4636) to authorize supplemental economic assistance for fiscal year 1990, to support democracy in Panama and Nicaragua, and for other purposes, pursuant to House Resolution 395, reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

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

□ 2100

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 171, nays 244, not voting 17, as follows:

[Roll No. 128]

YEAS—171

Ackerman	Ford (MI)	Nagle
Anderson	Ford (TN)	Natcher
Atkins	Frank	Neal (MA)
AuCoin	Frost	Nowak
Bates	Gejdenson	Oberstar
Beilenson	Gephardt	Obey
Bennett	Gibbons	Olin
Berman	Gilman	Ortiz
Bevill	Glickman	Owens (NY)
Bilbray	Gonzalez	Owens (UT)
Boehlert	Goodling	Pallone
Boggs	Gordon	Panetta
Bonior	Gray	Payne (NJ)
Borski	Green	Pelosi
Bosco	Hall (OH)	Penny
Boucher	Hamilton	Pickle
Boxer	Hertel	Price
Brennan	Horton	Rangel
Brooks	Hoyer	Richardson
Brown (CA)	Jacobs	Ridge
Bruce	Johnston	Roe
Bustamante	Kastenmeier	Rose
Campbell (CA)	Kennedy	Sabo
Cardin	Kennelly	Scheuer
Carper	Kildee	Schneider
Clarke	Kleczka	Schumer
Clay	Kostmayer	Serrano
Clement	LaFalce	Shays
Coleman (TX)	Lantos	Skaggs
Collins	Leach (IA)	Slattery
Condit	Lehman (CA)	Slaughter (NY)
Conte	Lehman (FL)	Smith (FL)
Conyers	Levin (MI)	Smith (IA)
Coyne	Levine (CA)	Smith (VT)
Crockett	Lewis (GA)	Solarz
de la Garza	Lowey (NY)	Spratt
DeFazio	Luken, Thomas	Staggers
Dellums	Machtley	Studds
Dicks	Manton	Swift
Dingell	Markey	Synar
Dixon	Martinez	Torres
Donnelly	Matsui	Torricelli
Dorgan (ND)	Mavroules	Towns
Downey	McCloskey	Udall
Durbin	McHugh	Unsoeld
Dwyer	McNulty	Vento
Dymally	Mfume	Visclosky
Early	Miller (CA)	Washington
Edwards (CA)	Miller (WA)	Waxman
Engel	Mineta	Weiss
Espy	Moakley	Wheat
Evans	Moody	Whitten
Fascell	Morella	Wise
Fazio	Morrison (CT)	Wolpe
Feighan	Morrison (WA)	Wyden
Flake	Mrazek	Yates
Foglietta	Murtha	Yatron

NAYS—244

Andrews	Clinger	Frenzel
Annunzio	Coble	Gallegly
Anthony	Coleman (MO)	Gallo
Applegate	Combest	Gaydos
Archer	Cooper	Gekas
Armey	Costello	Geren
Aspin	Coughlin	Gillmor
Baker	Courter	Gingrich
Ballenger	Cox	Goss
Barnard	Crane	Gradison
Bartlett	Dannemeyer	Grandy
Bateman	Darden	Grant
Bentley	Davis	Guarini
Bereuter	DeLay	Gunderson
Bilirakis	Derrick	Hall (TX)
Bliley	DeWine	Hancock
Broomfield	Dickinson	Hansen
Browder	Dornan (CA)	Harris
Brown (CO)	Douglas	Hastert
Bryant	Dreier	Hatcher
Buechner	Duncan	Hayes (IL)
Bunning	Dyson	Hayes (LA)
Burton	Eckart	Hefley
Byron	Edwards (OK)	Hefner
Callahan	Emerson	Henry
Campbell (CO)	English	Herger
Carr	Erdreich	Hiler
Chandler	Fawell	Hoagland
Chapman	Fields	Hochbrueckner

Holloway	Mollohan	Sensenbrenner
Hopkins	Montgomery	Sharp
Houghton	Moorhead	Shaw
Hubbard	Murphy	Shumway
Huckaby	Myers	Shuster
Hughes	Neal (NC)	Sikorski
Hunter	Nielson	Sisisky
Hutto	Oakar	Skeen
Hyde	Oxley	Skelton
Inhofe	Packard	Slaughter (VA)
Ireland	Parker	Smith (NE)
James	Parris	Smith (NJ)
Jenkins	Pashayan	Smith (TX)
Johnson (CT)	Patterson	Smith, Robert
Johnson (SD)	Paxon	(NH)
Jones (GA)	Payne (VA)	Smith, Robert
Jones (NC)	Pease	(OR)
Jontz	Perkins	Snowe
Kanjorski	Petri	Solomon
Kaptur	Pickett	Spence
Kasich	Porter	Stallings
Kolter	Poshard	Stangeland
Kyl	Pursell	Stark
Lagomarsino	Quillen	Stearns
Lancaster	Rahall	Stenholm
Laughlin	Ravenel	Stump
Lent	Ray	Sundquist
Lewis (CA)	Regula	Tallon
Lewis (FL)	Rhodes	Tanner
Lightfoot	Rinaldo	Tauke
Lipinski	Ritter	Tauzin
Livingston	Roberts	Taylor
Lloyd	Rogers	Thomas (GA)
Long	Rohrabacher	Thomas (WY)
Lowery (CA)	Ros-Lehtinen	Traficant
Madigan	Rostenkowski	Traxler
Martin (IL)	Roth	Upton
Martin (NY)	Roukema	Valentine
Mazzoli	Rowland (CT)	Vander Jagt
McCandless	Rowland (GA)	Volkmer
McCollum	Roybal	Vucanovich
McCrery	Russo	Walgren
McCurdy	Saiki	Walker
McDade	Sangmeister	Walsh
McDermott	Sarpalius	Weber
McEwen	Savage	Weldon
McGrath	Sawyer	Whittaker
McMillan (NC)	Saxton	Williams
McMillen (MD)	Schaefer	Wilson
Meyers	Schiff	Wolf
Michel	Schroeder	Wylie
Miller (OH)	Schuette	Young (AK)
Molinari	Schulze	Young (FL)

NOT VOTING—17

Alexander	Hawkins	Robinson
Barton	Kolbe	Smith, Denny
Craig	Leath (TX)	(OR)
Fish	Lukens, Donald	Stokes
Flippo	Marlenee	Thomas (CA)
Hammerschmidt	Nelson	Watkins

□ 2120

The Clerk announced the following pairs:

On this vote:

Mr. Nelson for, with Mr. Kolbe against.

Mr. Stokes for, with Mr. Robinson against.

Mr. Hawkins for, with Mr. Denny Smith against.

Messrs. McDERMOTT, CARR, and WALGREN changed their vote from "yea" to "nay."

Mr. OWENS of Utah changed his vote from "nay" to "yea."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST TO BE EXCUSED FOR MEDICAL REASONS—PERSONAL EXPLANATION

Mr. DENNY SMITH. Mr. Speaker, I ask to be excused from attendance in the House for the remainder of this evening so that I might undergo a series of medical tests that I am unable to reschedule. I regret this absence, but ask that the RECORD reflect that had I been present, I would have voted against the Moakley/Murtha amendment to H.R. 4636, and would have also voted against final passage.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4641

Mr. HYDE. Mr. Speaker, I ask unanimous consent that I may withdraw my name as a cosponsor of the bill, H.R. 4641.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

STATE-SUPPORTED HOMES FOR VETERANS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 231) to designate the week of June 10, 1990 through June 16, 1990, as "State-Supported Homes for Veterans Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I certainly do not object to this legislation, but reserve the time in order to yield to the gentleman from Iowa [Mr. NAGLE], the chief sponsor of the joint resolution.

Mr. NAGLE. Mr. Speaker, I thank the gentleman for yielding to me. I will be mercifully brief because of the lateness of the hour.

I would point out that there are 59 State-supported veterans homes in 37 States that are providing professional, generic, long-term health care for the men and women of our armed services. The homes were started after the Revolutionary War, which makes these facilities America's oldest serving commitment to our Nation's veterans. Over 13,000 veterans are provided long-term care on a daily basis. Last year these homes provided 4.7 million patient days of daily care in the form of physical therapy, respiratory therapy, drug abuse counseling and family counseling.

The goals of the State veterans' homes are to provide appropriate quality care services to disabled and elderly veterans, to provide a clearinghouse for techniques and expertise in the care of veterans.

This resolution not only stands as historical testimony to the commitment we have toward our veterans, but it also honors the caregivers for the valuable service they provide to our Nation's veterans.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 231

Whereas since 1864, 36 States have established a total of 58 State-supported homes for the veterans of this Nation;

Whereas such States and the Department of Veterans Affairs support such State-supported homes for veterans and such State-supported homes for veterans currently serve critical needs of the veterans of this Nation;

Whereas such State-supported homes for veterans shall continue to serve the veterans of this Nation and meet the future needs of such veterans when the number of aging veterans increases at an accelerated rate in this Nation;

Whereas such State-supported homes for veterans provide an important resource for the veterans of this Nation, and for the families of such veterans;

Whereas the staff of such State-supported homes for veterans contribute to an enhanced quality of life for the veterans of this Nation, and for the families of such veterans; and

Whereas there is a need for greater public awareness of the vital and significant contributions of State-supported homes for veterans to this Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of June 10, 1990 through June 16, 1990, is designated as "State-Supported Homes for Veterans Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on Senate Joint Resolution 231, the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

UNITED STATES NOT PARTY TO HUMAN RIGHTS TREATIES

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to include extraneous matter.)

Mr. FALEOMAVAEGA. Mr. Speaker, I wonder if my colleagues in the House realize that while the United States and its leaders in the highest levels of Government, continues to advocate the importance of human rights and individual freedoms throughout the world—over our own Government has refused to ratify several important international treaty conventions, which include the International Covenant on Economics, Social and Cultural Rights, and the International Convenant on Civil and Political Rights—commonly referred to as the International Covenants on Human Rights.

Mr. Speaker, I want to share with my House colleagues, an article which appeared recently in the Christian Science Monitor on the subject matter, and I believe the coauthors of the article, Senator DENNIS DECONCINI and Congressman STENY HOYER, did an excellent job to explain the problem and the solution in resolving this longstanding situation.

Mr. Speaker, let's be serious with this issue of human rights. If it is our expectation that other countries of the world should grant human rights principles to their citizens, then certainly we ought to do the same for our own people before preaching it to others.

[From the Christian Science Monitor, Apr. 18, 1990]

TIME TO RATIFY U.N. HUMAN RIGHTS COVENANT

(By Dennis DeConcini and Steny H. Hoyer)

The National Council of Churches recently initiated a campaign seeking US ratification of basic human rights treaties, including the International Covenant on Civil and Political Rights and the International Convenant on Economic, Social and Cultural Rights (collectively known as the International Convenants on Human Rights). Although the US voted for United Nations adoption of these treaties in 1966 and signed them in 1976, they have languished before the Senate for 10 years. The question the National Council poses is: Why has the US, a country with a strong human rights record, failed to ratify these convenants? The answer to this question lies in part in how the US approaches its own human rights problems.

Every country can improve its human rights record. The US is no exception. To this end, the US has developed extensive machinery for the promotion and protection of the rights espoused by these convenants. As a result, the most vocal and disparaging domestic critics of US civil and political rights practices generally concern themselves with improving this existing domestic machinery, rather than persuading their government to participate elsewhere. In short, because of the availability of redress on the national level, US citizens have not found it necessary to lobby the Senate for ratification of the covenants which provide international reinforcement for domestic efforts.

In fact, the persons who would most benefit from more US participation in the UN's human rights protection system are victims of human rights violations in other countries. By not ratifying the covenants, the US denies itself a forum in which to raise the plight of those who suffer under repressive regimes. Within those forums in which the US does participate—such as the Helsinki process—every time the US government is called upon to explain why the Senate has not acted on the covenants, it is forced to take time and attention from other human rights issues.

Some have explained US failure to ratify the covenants by pointing to the UN commitments of the USSR and other countries. For example, at the very time the International Covenants were submitted to the Senate for advice and consent in 1978, the Soviet Union was engaged in the Senate for advice and consent in 1978, the Soviet Union was engaged in a crackdown on human rights activists. A year later it invaded Afghanistan. Poland declared martial law in 1981 in stark contradiction to the very object and purpose of these pacts. Romania's house arrest of its own human rights rapporteur speaks for itself.

Obviously much has changed in the Soviet Union and Eastern Europe since 1978. The Soviet Union has now taken steps to clean up its human rights record and has attempted to fill the void left in the UN by the limited participation of the US. Gorbachev has supported UN peace initiatives in several regions of the world and took the lead in calling for submitting human rights disputes to the International Court of Justice. Hungary, the first Warsaw Pact country to openly criticize the human rights policies of a fraternal ally, has moved to use a UN forum to investigate Romania's treatment of ethnic Hungarians. Against this backdrop of increasingly credible East bloc participation in the UN's human rights process, the US is all the more conspicuous by its absence.

International human rights law is a new and promising way to promote foreign policy goals. A vacuum left by the US will surely be filled by others. The USSR and Eastern Europe are not the only countries able and willing to shape international human rights norms. All the permanent members of the UN Security Council have ratified these treaties—except the US. Among the 35 Helsinki-process countries eligible to become a party to these treaties—including the 16 members of NATO—only Ireland, Turkey, and the U.S. have not.

Will it take over 40 years to get the convenants ratified, as did the Genocide Convention? Not if action is taken in three quarters.

First, the American human rights community must make a concerted call for ratification. The same groups that lobby Congress on human rights in other parts of the world must understand that our overall efforts to achieve their goals are hampered by our failure to ratify these convenants. While most non-governmental organizations concerned with global and regional human rights abuses support ratification, they have failed to take the lead in calling for the Senate to act.

Second, the Senate must act. Beginning with new hearings, the Senate should quickly give its advice and consent to the president.

Finally, the administration must stop fence sitting and state its support of the covenants. For eight years the Reagan administration claimed to have the covenants "under review," and thus avoided taking any position at all. Sadly, the current administration announced last May that it, too, has no opinion and is continuing this lengthy "review" process.

Morris Abram, the US ambassador to the most recent Helsinki-process human rights meeting, answered our critics by noting that other countries "have signed these documents but are unwilling to live up to them; the United States, on the other hand, has failed to ratify them, but observes their terms. Which is more important?" If forced to choose, the clear answer to the ambassdor's question is that observance of these standards is more important than ratification.

But it is equally clear that we do not have to choose; we can do both. There is no reason why the Eastern countries should not be called upon to observe the standards they have openly and formally accepted; and there is no reason why the United States should not openly and formally accept the standards we claim to observe. By doing the latter, the US can enhance its position to do the former.

In the most recent agreement of the 35 countries participating in the Helsinki-process, the US committed itself to "consider acceding to the [International Covenants on Human Rights]." Our failure to abide by this promise will make our calls to other countries to live by theirs, ring hollow.

GENERAL LEAVE

Mr. HEFLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the subject of the special order today by the gentleman from Wisconsin [Mr. PETRI].

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

There was no objection.

STUDENT SUCCESS STORY

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

Mr. GAYDOS. Mr. Speaker, during the past year or so, we have heard a lot about how terrible America's private career training schools are, how they have been ripping off men and women who are seeking to break the bonds of poverty, and how they have failed to teach those who want to learn a trade.

Mr. Speaker, I stand here today to tell you and my colleagues that contrary to these misconceived stereotypes, private career training schools—a vital and necessary segment of America's higher education community—are doing a great job of teaching career skills to hundreds of thousands of our citizens who, today, lead meaningful lives as productive, tax-paying Americans.

Too many of our colleagues seem to be more concerned with whether or not a particular career training school has a high or low default rate or whether the students have high school diplomas than with whether or not

that school is actually teaching students what they need to know for a successful career and placing them in career opportunities.

Career training students are more likely to complete their coursework and find jobs than students who enroll in any other sector of postsecondary study because career training schools have higher completion and placement records than any other sector of higher education—61 percent of career training school students successfully complete their coursework compared to 33 percent in the Job Corps, 43 percent at public community colleges, and 58 percent at 4-year colleges.

The placement rate for career training schools is 81 percent. This rate is not only higher than any other sector of higher education, it is also much more reliable because the figures must be documented for the Department of Education.

While it is distressing that such basic facts regarding career training schools can be completely overlooked, what is even more disturbing is how rarely and how little we hear about the students.

I would like to take a few minutes to tell you about just two of the millions of successful career school graduates—Quang Tang Ho and Robert Crolley.

Mr. Ho was 4 years old when his father was taken prisoner by the North Vietnamese. He and his family escaped and eventually settled in the United States.

The same year his mother died, Mr. Ho won a Scholastic Art Award Scholarship to attend the Colorado Institute of Art.

While he and his sister raised their five younger brothers and sisters who were also orphaned, Mr. Ho attended the school's visual communications program. He is so talented he was able to secure freelance jobs to help finance his education, but he also qualified for and received federally guaranteed student loans.

After graduating, Mr. Ho worked briefly for a small graphic arts studio before establishing his own firm—Quang Ho Illustration and Design in Denver, CO. His list of clients include Coors, Blue Cross/Blue Shield, Upjohn, and the Chicago Symphony. He is also a recipient of the Society of Illustrators Award.

As you know, students are not required to start payments on those guaranteed loans until 6 months after they finish or withdraw from their program of study. Mr. Ho, however, was so motivated he paid off his Stafford loans even before he graduated.

The next student I'm going to tell you about is not only very motivated, he is also very courageous. Robert Crolley decided to go-for-broke and change his career in an effort to keep his family off welfare.

Mr. Crolley supported himself and his family by working as a supervisor in a plastics factory until the factory closed down.

He was left with plenty of bills but no money to pay them. He struggled for 6 months before he found he could no longer make both ends meet.

He made a very important decision concerning his future and the future of his family when he reached this point. Instead of becoming a welfare statistic, Mr. Crolley decided to enroll in the Tri-State truck driver training program in Dayton, OH.

As you know, welfare can become a way of life for too many families when dependence on the programs is passed from father to son and mother to daughter, but, Mr. Crolley didn't let this happen. He took the initiative, worked hard, and today, he supports himself and his family by driving for Poole Truck Lines.

To let you in on another overlooked fact regarding career schools, when these two Americans chose career training to further their lives, they also eased the pocketbooks of our taxpayers at the same time.

A 1989 report by Shearson-Lehman-Hutton argues that taxpayers save $17,938 per student per year for every American who finishes a training program and gets a job earning $15,000. they say the money is saved through programs such as welfare, food stamps, women and infant care, housing, health care, and taxes on that $15,000 a year job.

Also, using figures calculated from a National Association of State Scholarships and Grant Programs report, it is estimated that for every one year of education in a private career school, taxpayers save $2,975 compared to the cost of educating a student in a 4-year college for the same period and $1,119 compared to the cost of educating a student in a community college for a similar time period.

Career training not only helps ease the pocketbooks of our Nation's taxpayers, it enables students to reach their goals and change their lives for the better.

The two students I talked about today have joined the ranks of the millions of successful career training school graduates. I take my hat off to all of these hard-working Americans and the schools who successfully educated them.

Keep up the good work.

□ 2130

TRIBUTE TO VFW SUGARLOAF MEMORIAL POST NO. 6368, DUPO, IL

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

Mr. POSHARD. Mr. Speaker, there is a group in a town in my district, Dupo, IL, which I want to salute.

This is a group on which we have always been able to depend to keep us true to our traditional values and remind us of the freedoms so many have fought and died to defend. And I want to let you know about their contributions to our society.

Since 1946, the Veterans of Foreign Wars, Sugarloaf Memorial Post No. 6368, has provided outstanding service to veterans and the community where its members live.

And in all of those years, Post No. 6368 has enjoyed the support and dedication of the ladies auxiliary.

Ask any VFW commander and he will tell you a post is only as good as the auxiliary that works with it side by side. And that certainly is the case for this post.

To be a member of the auxiliary a woman has to be a close relative of a member of the post. During the years this post has survived and thrived, hundreds of women have assisted in making Dupo and the surrounding area a better place to live.

At the risk of leaving some of their good deeds unnoticed, I want you to know about the projects they have worked on. They include blood drives, poppy sales, youth education programs, volunteer work at the Jefferson Barracks Veterans' Administration Hospital, and a host of other deeds big and small that add up to a tremendous contribution.

Here is perhaps one of the most telling facts of all. The Sugarloaf Memorial Post No. 6368 has about 192 members. That is pretty solid membership.

But there are almost 300 in the ladies auxiliary. That is dedication. That is pride. That is being willing to spend a lot of time on behalf of your friends, family, and your community as a whole.

Where would we be in this country without the volunteer efforts of groups like the ladies auxiliary? How many young people have been influenced to live their lives in a patriotic, upstanding fashion because of their example? Probably too many to count. But that is the kind of thing that makes our lives just that much better.

Dupo is a great town. It is located in St. Clair County, just across the Mississippi River from St. Louis, and it has a rich heritage of community pride and progress. In the 44 years since the ladies auxiliary has served in a partnership with the Sugarloaf Memorial Post, the VFW has been there as a driving force for making life better in Dupo.

That is the spirit of America. We help people who need it. The VFW members have sacrificed as much as any living group of veterans, and I am

proud to represent these fine people in Congress.

Memorial day will be here soon and, I am pleased to congratulate them on their long history of achievement and service. They are great Americans, who demonstrate their love for their country by serving in this auxiliary, and by the way they live their daily lives.

May they continue their good work for generations to come.

THE BENEFITS OF THE RESERVES ARE BOTH TANGIBLE AND INTANGIBLE

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

Mr. MONTGOMERY. Mr. Speaker, I want to continue to share with my colleagues a series of articles which appeared in the Roll Call newspaper in the April 30, 1990, edition in a special policy brief, titled "National Guard and Reserves in a Changing World." This brief was developed to describe the roles and missions of the Reserve components and to educate the readers. I wrote the lead article in hopes of generating interest by the readers to learn more about the Guard and Reserve. I commend my colleagues to read these articles to gain a better appreciation of the Guard and Reserve. Today I'm sharing another in the series of articles that appeared in that April 30 Roll Call edition.

THE BENEFITS OF THE RESERVES ARE BOTH TANGIBLE AND INTANGIBLE

(By Maj. Gen. Evan Hultman)

The past decade has seen a dramatic increase in the size and capability of our nation's Reserve Forces. Our total military manpower expanded by 17 percent, due principally to a 36 percent increase in Reserve Force personnel.

The most dramatic increase was the Reserve contribution to the personnel strength of the total Army, which rose from 50 to 59 percent by the end of the 1980s. The Reserve components of the Air Force showed a corresponding growth from 25 to 30 percent of their Total Force. The Naval Reserve has grown by more than 50 percent in the 1980s to account for over 20 percent of the total Navy personnel.

During the 1980s, Reserve components were an integral part of US involvement in low-intensity conflicts around the globe—operations off the coast of Lebanon, refueling missions during the Libya strike, the Grenada rescue, and, most recently, as a part of Operation Just Cause in Panama.

The Reserve Components have met the challenges both at home and abroad during the 1980s and have demonstrated their leadership ability and training readiness to get the job done.

The 1990s should see increased emphasis on the role of the Reserve components and their contribution within the Total Force as defense planners revise the national defense policies in this era of a diminished threat, longer warning times, and defense budget constraints.

A further indication of the enhanced role and responsibility that have been given to Reserve Forces is the recent revision of the 1976 law giving the president authority to call up to 200,000 Reservists to Active Duty for up to 90 days for any operational or contingency requirement.

It is apparent that recent political changes in the Soviet Union and Eastern Europe have altered dramatically the nature of the military threat to our national security. There is less agreement on the nature of the changing threat, with its resulting greater instability and impact on our national security.

In recognition of these changes, the Reserve Officers Association (ROA) called for a comprehensive analysis of the evolving threat, the military force structure to counter the threat, and the most cost-effective mix of Active and Reserve units in the resulting military force.

Congress responded by requiring the Secretary of Defense to conduct such a study and submit the findings by the end of this year.

ROA's charter from Congress provides us with a real challenge: "The object and purpose of the Reserve Officers Association shall be to support a military policy for the United States that will provide adequate national security and to promote the development and execution thereof."

ROA is not advocating that absolutely no cuts be made in the Reserve Forces, nor are we recommending that as Active Forces are decreased there should be an automatic and equal increase in the Reserve Forces.

It is our position that because of the changing world situation and longer warning time prior to any attack on our allies, a defense strategy that takes maximum advantage of the inherent advantages of the Reserve Forces makes even more sense in the future than it has in the past.

Reserve Forces should be taking on some of the roles traditionally found in the Active components. We support the concept that when, in the Army for example, Active divisions are removed from the structure, the corresponding Reserve component support tail should also be removed from the total Army structure while ensuring that any personnel with critical "war stopper" skills are retained.

It is conventional wisdom that Reserve Forces are less expensive to operate than similar Active Force units. This is most apparent in manpower intensive units, such as infantry battalions where the cost reduction for maintaining a capability in the Reserve Forces instead of in the Active Force can be as much as 80 percent.

Operating aircraft squadrons in the Reserve Forces, by comparison, saves only about 30 to 50 percent when compared to similar Active Force units, depending on the operating tempo. This "saving" does not come without some "cost" in either peacetime operations capability being lost or greatly diminished or the increased time required to have some units available for mobilization or contingency requirements.

However, there are also less apparent tangible savings and significant intangible benefits of Reserve Forces. For example, most Reservists have the benefit of Active Duty service and training that they bring to the Reserve Forces. This alone saves countless millions of dollars each year by avoiding significant training costs the Reserve Forces would otherwise encounter.

On the intangible side, the nature of a citizen/Reservist ensures that our nation's military is not isolated from the people it is dedicated to serve and protect.

These are some of the issues that make the task of the ongoing Total Force Study Group difficult. Some of these same issues, particularly the scope of training that resides in the Reserve Forces today, make it imperative that the Reserve structure not be cut until the Total Force Study is completed and reviewed by Congress and the Reserve community.

ROA is advocating that our nation have a military force adequate to meet the emerging threat with the most cost-effective balance of Active and Reserve Forces. We must have no less, since freedom is our fundamental right.

CHAIRMAN ANNUNZIO REPORTS PROGRESS TO ESTABLISH POLISH CREDIT UNIONS

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

Mr. ANNUNZIO. Mr. Speaker, when the Polish people turned their back on communism and looked toward democracy, one of their first requests was for a restructuring of their financial institutions because they did not trust their $8 billion in zlotys, their national currency, around their homes, under mattresses and floorboards. The practice of hiding zlotys at home reduces the amount of deposits available to fund loans for the business ventures needed to get Poland's capitalism economy off the ground. The immediate reaction to the newly found freedom by the Polish people was the call for the creation of credit unions, the nonprofit institutions prevalent at many American workplaces.

On December 4, I wrote to Secretary of State James A. Baker III and Treasury Secretary Nicholas F. Brady to urge they do what they could to provide assistance to Eastern European nations, especially Poland, as they restructure their financial institutions. I specifically asked Mr. Baker to direct the Agency for International Development [AID] to promptly provide funds to the World Council of Credit Unions to help the Polish people with technical training to improve their economies.

Earlier this year, I met with a contingent from Solidarity who were in the United States to learn more about credit union history, philosophy, and operations.

Mr. Speaker, I would like to report that progress is being made. The Credit Union National Association has written to me to say that the World Council of Credit Unions has received an 18 month, $230,000 grant to assist the Polish people. The mission of the World Council is to organize, expand, and strengthen credit unions throughout the world as a means of promoting economic and social development. The AID funds will be used for a detailed technical team analysis of the market, legislative and financial climate in Poland, the subsequent design of a credit union development program and the initial implementation of that development program. A World Council technical team will be in Poland next month, and design of the long-term development program will be completed shortly thereafter.

Mr. Speaker, the Credit Union National Association also informs me that the World Council has received a request from Hungary to assist two cooperative groups there to carry out an orientation trip to the United States,

similar to the one by the Polish delegation in February and March. Several other free market countries also want to learn about the operations of credit unions. The council said it also has been asked to provide assistance to organizations interested in credit unions in Bulgaria and Czechoslovakia.

It appears that when peoples around the world throw off the mantle of communism, they turn to credit unions, the organizations owned and operated by its members according to democratic principles.

TRIBUTE TO EUNICE KENNEDY SHRIVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. PETRI] is recognized for 60 minutes.

Mr. PETRI. Mr. Speaker, to imagine Eunice Kennedy Shriver stepping down from the helm of Special Olympics is almost like thinking the unthinkable. Eunice Shriver is Special Olympics, just as she is the spirit and substance of almost every program for people with mental retardation that has been developed over the past 30 years. In 1968, Eunice Shriver founded Special Olympics. She had faith that people with mental retardation could do many more things than even many experts thought they could. And she was right. Since that first track meet in 1968, millions of persons with mental retardation have taken part in sports activities through Special Olympics. And as they have become skilled in sports they have also learned the living skills that have made them valuable citizens at school, at home, in the community, and in the workplace. No single program has had as dramatic and lasting effects as Special Olympics. More than just another sports league, Special Olympics has become a worldwide movement for justice and equality for persons with mental retardation. And behind this movement, for 22 years, has been the energy and dedication of Eunice Kennedy Shriver. While we know that Special Olympics will grow and touch many more lives, it just will not be the same without Eunice Shriver. Whatever else she goes on to do now, she has left a legacy of human service that is unequalled in our generation.

Mr. MAZZOLI. Mr. Speaker, it's my pleasure to participate in today's special order in honor of Eunice Kennedy Shriver, who—after 22 years—is turning over the day-to-day responsibilities of the Special Olympics programs.

While her official role may change, her influence and guidance will, I am sure, continue to be an integral part of the Special Olympics.

Mr. Speaker, the timing of this special order is very appropriate. For earlier today, I joined with an overwhelming majority of my House colleagues in adopting the Americans With Disabilities Act, which seeks to prohibit discrimination against disabled individuals. However, long before the ADA bill was on the drawing board, Eunice Shriver was already showing the Nation—and the world—that individuals with mental retardation have the desire, the ability, and the right to participate in sports training and athletic competitions.

One of the unique and admirable aspects of the Special Olympics programs during Mrs. Shriver's tenure has been the fact that she has almost never solicited Federal funding for this program. She did not want it to be part of a huge bureaucracy but to rise and fall on its own merits and its own ability to attract private funds. And rise it has. Today, Special Olympics International raises more than $70 million from the private sector in every State and many Foreign countries, including China, Chile, the Soviet Union, Cuba, and the Netherlands, to support its year-round training and competitions. Almost 1 million athletes train and compete in 22 Olympic-type sports and 500,000 volunteers assume most of the coaching, training and fundraising responsibilities.

For my own part, I have, over the years, participated in the Nike Capital Challenge which raises money for the Special Olympics program, and I am proud that my Alma Mater, the University of Notre Dame, has been the site of the International Special Olympics.

Again, I commend and thank Eunice Shriver for her leadership during these 22 years, and no doubt, the support and participation in Special Olympics will continue to grow in the years ahead.

Mr. HORTON. Mr. Speaker, it is my distinct pleasure to recognize a special group of people today. It seems ironic that we should recognize these individuals on the day we consider one of the most important pieces of legislation to come before this House, the Americans With Disabilities Act. Through the vision and energy of Mrs. Eunice Kennedy Shriver we stand up here today to salute the participants of the Special Olympics.

The Special Olympics began in 1968, when Mrs. Eunice Kennedy Shriver started a day-camp for people with mental retardation. In that year, the First International Summer Special Olympic Games were held at Chicago's Soldier Field for 1,000 athletes from the United States, Canada, and France. Since then, the Special Olympics has had worldwide impact with some 750,000 athletes and 550,000 volunteers participating in year-round activities.

As dean of the New York congressional delegation, I am especially proud to honor these dedicated athletes. In my State of New York, the Special Olympics has grown from 100 Special Olympians in 1969, to the largest program of sports and athletics competition for children and adults with mental retardation in the United States. The New York Special Olympics serves nearly 28,000 Special Olympians in 38 regions of New York State through a network of more than 15,000 volunteers. I am deeply touched by the courage, determination, sportsmanship, and voluntarism that are displayed during these year-round events.

Mr. Speaker, the accomplishments of these individuals makes me very proud to be associated with them and the State of New York. I am confident that their dedication will enable them to continue to achieve and to be successful in the years ahead.

Mr. BROWN of Colorado. Mr. Speaker, there are few programs in the Nation as rewarding to its participants as Special Olympics. Special Olympic programs have given hundreds of thousands of persons with mental retardation more than just experience in sports. It has given them hope and self-esteem.

I would like to join the many people giving thanks to Eunice Kennedy Shriver for her selfless efforts that created this program and built it into the worldwide humanitarian project that it is today.

Eunice Kennedy Shriver will be missed as chair of Special Olympics International but each Special Olympic event is already a tribute to her.

Mr. KASTENMEIER. Mr. Speaker, Special Olympics is one of the great success stories of our time. It demonstrates all the good qualities of America: Initiative, creativity, compassion, volunteerism, private enterprise. And at the same time, it has brought out these same qualities in more than 80 countries with diverse cultures and economic systems. If it had not been for Eunice Kennedy Shriver, millions of children and adults all over the world would never have known the joy of competitive athletics, and the health that comes from regular, vigorous sports activity. Before Special Olympics, only 25 percent of this Nation's citizens with mental retardation received as much as 1 hour of physical activity per week. Most got none at all. They had never run a race, thrown a baseball, skated on a rink, skied a slope, swum or dived in a pool. Special Olympics changed all that because one courageous woman was convinced that people with mental retardation could do much more than many experts said they could. Because of Special Olympics, the public has a better understanding of the gifts and qualities of persons with mental retardation; parents of special children have a new sense of pride; and the athletes have developed a heightened self-esteem and confidence in their own ability. Instead of being segregated, Special Olympians are part of the mainstream of their communities. As Eunice Kennedy Shriver steps down as Special Olympics' first and only chairman, she can take great pride in a job well done. I and all the people of my district salute her.

Mr. FASCELL. Mr. Speaker, I am pleased to join our colleagues today as we pay tribute to Eunice Kennedy Shriver, founder and chairman of Special Olympics International. Mrs. Shriver's vision, her compassion, and her determination have left us with a program for mentally retarded persons that is unique in its aspirations and in its success.

The International Special Olympics today provides a forum for the athletic achievement of close to 1 million youngsters internationally. It is a source of pride and inspiration not only for the athletes involved but also for our country and the world. Small wonder that cities vie for the opportunity to host the culminating events, which attract worldwide attention.

This remarkable program arose out of Mrs. Shriver's lifelong commitment to improving the lot of the mentally retarded, and her ability to find the means to do so. Beginning in 1963, she sought to encourage revolutionary research into the development of resources for the retarded with funds from the Joseph P. Kennedy, Jr., Foundation. She also provided the impetus for various national projects such as the President's Panel on Mental Retardation and the Mental Retardation Facilities Construction Act of 1963, which supplied Federal funds to help the Nation's retarded persons

for the first time. Finally, she founded and developed the Special Olympics, a celebration of the talents and abilities of mentally retarded athletes and, again, an astonishing success.

Today, Eunice Shriver's dream of international athletic events involving mentally retarded athletes seems as natural as the original Olympics. Her vision has become an independent and enduring reality. We are all fortunate for this turn of events. As Mrs. Shriver relinquishes the day-to-day leadership of the Special Olympics International, we cannot thank her enough for her wisdom and her contributions to our world.

Mr. RICHARDSON. Mr. Speaker, 22 years ago, it was the fate of most children and adults with mental retardation to be hidden away at home or in institutions and to be denied participation in most of the activities the rest of us take for granted. But that was before Special Olympics. In 1968, one woman, Eunice Kennedy Shriver, had the courage and the vision to break down old myths and prejudices about mental retardation, and to insist that people with mental retardation could play team sports, could run a mile, could swim the length of a pool, and could take part in competitive sports. Since the first Special Olympics Games at Chicago's Soldier Field in 1968, Special Olympics has become a worldwide movement. Millions of special people and their families have taken part in the year-round programs since then. And millions more of the general public have learned that their special friends and neighbors are people with courage, character, and skill, who are worthy of their respect and their acceptance.

On behalf of the people of my district, I congratulate Eunice Kennedy Shriver on the remarkable achievements of Special Olympics and I wish her well as she focuses her energy and compassion on other programs on behalf of people with mental retardation.

ECONOMIC DEVELOPMENT IN EASTERN EUROPE AND THE BALTIC

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

Mr. LEACH of Iowa. Mr. Speaker, I rise to speak again to the issue of Eastern Europe and the Baltics and suggest a multipronged approach to economic development in the region.

Before turning to the economic issues of the moment, I would like to comment briefly on the basics of the historical and philosophical circumstances with which the region is confronted.

We appear to be on the cusp of one of the great turning points in history.

In a geostrategic sense, the Russian empire appears to be splintering from without and perhaps within.

In a philosophical sense, communism is in retreat, pell-mell.

At the root of the basics are theories of revolution, theories of the individual, theories of economics.

As we all have come to understand, communism is based on historical, particularly economic, determinism, with a presumptive vanguard elite leading a class struggle.

American revolutionary philosophy is premised on the empowerment of individuals endowed by a creator with inalienable rights.

Because Americans have a general aversion to radical thought and radical change—what Tocqueville described as a cultural penchant for moderation—we have a tendency to overlook one of the profoundest of political facts: that our political philosophy and heritage is profoundly more revolutionary than that provided by the Marxist model.

In contrast with communism, Jeffersonian democracy postulates change from the bottom up, not top down, and institutionalizes change in economic as well as political institutions.

The classic contrast between our systems is illustrated this week in the Baltics. Gorbachev asserts that the independence movement must be constrained by Soviet law and the Soviet Constitution. The Baltic peoples hold freedom springs not from law, but from the individual. Gorbachev calls the newly elected leaders of the Baltic states counterrevolutionaries. They consider themselves patriots.

It is imperative therefore that we recognize the profoundness of the juxtaposition of these two revolutionary paradigms, and understand that in a Jeffersonian context it is revolutionary to assume that governments derive their power and thus legitimacy from—and only from—the consent of the governed. It is counterrevolutionary to hold that freedom is a right granted and thus removable by law, one's own or anyone else's.

Our Founding Fathers were moral as well as political philosophers. They understood Locke's admonition that man was prone to excess and that, in fact, nothing was more dangerous than a good prince. Accordingly, they embraced Montesquieu's separation of powers doctrine and established a limited, constitutional republic.

Likewise, in contrast with the Socialist foundation of Marxism, Jeffersonian democracy embraced Lockean property concepts. Emphasis was placed on individual rights and private property, rather than social obligations defined by others and government ownership of the means of production.

The history of postwar Europe is the history of social experimentation. Western Europe has shown that individual peoples when given a choice prefer democratic institutions and that, with a partial exception in Scandinavia, the economic system that best fits democracy is free enterprise.

Eastern Europe has shown that experiments with state-sponsored coercion are doomed to failure and that the power of individual aspirations for freedom is greater than either the gun held by a foreign soldier or the nuclear trigger controlled by a foreign potentate.

All of us are learning anew the power of nationalism, the desire of people to carve their own destiny, to make their own mistakes. What appears clear at this juncture is that the Soviet soldier will no longer be countenanced in the region; what is unclear is whether current nation-state boundaries will hold, whether ethnic chaos will be unleashed, whether Democratic aspirations will produce lasting Democratic institutions, whether economic change will be fast or fair enough to satisfy the appetites of the people.

The irony is that as we move to down-size our armed forces and reduce military spending, Uncle Sam's pocket is not very deep. Washington is more concerned about the summit with Congress than the summit with the Kremlin, the shape of new taxes than the shape of a new Europe, the mandate to shrink the deficit instead of the cry to enlarge our economic commitments. The need for a Marshall plan for Eastern Europe may be self-evident; the likelihood is not.

The irony also is that if the current debt obligations of the Eastern European states are honored, any funds Washington may find to spare will be recycled to the region's principal creditors: the Germans, the Swiss, the French, and the Soviets.

Hence, recognizing the constraints of the political circumstance, I would urge five basic economic initiatives, some of which may be out of sync with out allies.

The first is debt forgiveness, a new Bush plan for Eastern Europe to complement the Brady plan for Latin America.

As everyone understands, President Bush is confronted by a vexing political catch-22 as he navigates our country through the unpredictable tides and currents shaping contemporary world affairs. In Eastern Europe the societal strains and economic dislocation created by the unprecedented transition from command to market economies seem increasingly formidable, even as bilateral U.S. aid dollars to propel growth appear to be—relative to the total scope of the problem—increasingly limited.

Neither American political party is contemplating either foreign aid increases or granting to the executive branch anything like the flexibility it needs to manage prudently our existing foreign aid program. While geostrategists within the leadership of the majority party have propounded the stunning thesis that the United States should proffer direct aid to an economically unreconstructed Soviet Union, my sense is that the driving priority ought to be for the United

States to emphasize above all the need to preserve the gains for freedom in Eastern Europe. In this context, we have little choice but to place an emphasis on reducing old debt rather than raising false expectations that substantial new money commitments from the U.S. Government are in the offing.

Accordingly, I have introduced legislation—The Democracy Defense Initiative—which authorizes the President in a multilateral context to write-down on a case-by-case public sector debt in Eastern Europe.

Like the Brady approach to commercial debt relief, official debt reduction in Eastern Europe quintessentially reflects President Bush's "will without wallet" lament. It is not only the maximum that can be expected under the circumstances, but a statesmanlike philosophical accommodation that should help bring American power and commitments more into balance.

Attendant to such an approach are three perplexing issues: the obligations of the commercial banks; the attitude of Western European official creditors; and the problem of precedent.

Treasury is particularly concerned that the cart not come before the horse, that commercial banks not have their credit liabilities strengthened at official expense. Unlike the Brady initiative, it is unlikely, in part because official debt is so much larger than commercial in Eastern Europe, that the private sector will reduce its debt first. The strategy should thus be to induce commercial debt reduction in tandem with official. The U.S. Government may have to be the lead horse, the "neigh leader" pulling the commercial stagecoach, but all must budge together.

Western Europeans, who hold the brunt of current debt have natural misgivings, but despite these it is the obligation of an American Presidency to lead. Precedent exists with the Brady initiative, with the mutual decisions of the past several years to write-down sub-Saharan Africa debt, and with the London Accord of 1953, in which the allies agreed to reduce $2 billion of German debt in order to strengthen Democratic governance in Bonn.

Given the Marshall plan and post-war German debt restructuring, we have every right to speak to our allies with moral force. If the Europeans are discomforted, so be it. The fact is that just as the Brady plan changed the landscape of international finance with its very introduction, a personally stamped Bush initiative of this nature would so change the expectational framework in Eastern Europe that in one form or another Western European governments would be hard pressed not to accede. We can't prudently go it alone; we can insist on allied unity, not for our sake, but for the sake of stability on their continent.

From an American perspective, the theoretical problem of precedent is more troubling. We have approximately $613 billion in official debt outstanding, of which Eastern European governments hold less than $4 billion. The pressure to restructure this debt will presumably grow. My sense is that this is a valid concern, but the risk and cost is worth it.

Poland, for instance, is the bellwether of freedom, and in that courageous country where the decision has been made to rupture the economy from its Socialist moorings real industrial production and real income is down dramatically. The country's current account balance is weakening at the same time its debt, despite Paris Club rescheduling, is accelerating. While it might be argued that simply throwing dollars at certain Eastern European problems could defer change and allow unsustainable enterprise to limp along for a year or two more, the case for lifting the debt burden is overwhelming in Poland and would serve as an action model which bolsters enterprise, not welfare.

A footnote, but not insignificant, issue is the losses that will be entertained by the export financing arms of various governments. The fact taxpayers may have to pick up the costs of past government financed export sales to Eastern Europe might help lead to a little more restraint in the use of such financing, which would be in the interest of the United States, which employs such financing approaches less than our competitors, and in the interest of long-, although not short-, term fiscal sanity for all governments.

The second initiative, which the U.S. Congress has already made a down-payment toward, is to provide modest direct aid, preferably to advance private sector development rather than bolster social or debt service. A strength of the American economy is its investment banking infrastructure, but caution should be signaled in the sparseness of precedent in the government's qualification as a prescient picker of winners in credit allocation games. In addition, there is likely to be certain disgruntlement that may develop among the parties not chosen for government directed capital allocation. Nonetheless, in particular as long as current debt arrangements are in place, the case for searching out new entrepreneurs and breaking from the existing economic infrastructure is overwhelming.

As for the savings potential and hence prospects of prudent internal credit allocations within Eastern European societies, particularly Poland, the case for helping establish a healthy private sector banking community as well as cooperative agricultural and credit union infrastructures untied to and undirected by a central government is powerful. Modest Western support and, more importantly, technical assistance is crucial in these endeavors. Legislation I have authored in this area is part of existing statute, but unfortunately to date has not received as much administration attention as I believe is warranted. The fact is that it is more important to develop institutions Eastern European people have confidence in so that the estimated $4 billion currently in mattresses or their equivalent in Poland alone can be tapped for indigenous, self-directed economic development.

Third, the President should put the prestige of his office and Congress should exhort American business to invest in Eastern Europe. The President has properly urged and agreed to help orchestrate private sector volunteer efforts, but there is no substitute for real American entrepreneurial commitments. Investments in jobs as well as ideas are in order. On the volunteer side, the Peace Corps should be authorized and provided emergency resources to give priority to business school rather than English teachers in Eastern Europe. America's business schools should be asked to adopt an Eastern European institution for exchange purposes just as American legislators ought to develop one-on-one ties with East European parliamentarians.

Fourth, and perhaps most importantly, the United States ought to negotiate a free trade agreement with the countries of Eastern Europe and the Baltics, beginning with Poland. Politicians too frequently assume that a bettering of world relations is likely to stem primarily from government-to-government ties. Actually business men and women, unelected people of commerce, are bringing the world closer together than public officials and stand a better chance to defend the sanity of peace from the insanity of war than any president or commissioner.

The idea of Free Trade Agreements, which the United States has precedentially established in the Caribbean, with Canada, and Israel, makes particularly good sense in Eastern Europe and the Baltics.

For Eastern Europeans it provides assured market access to the United States and thus stands as a beckoning incentive for American as well as European and Japanese investment.

For America the establishment of a Free Trade Agreement would not only provide the region a greater chance for economic progress and thus political stability, which is profoundly in our strategic interest, but it could serve to undercut from the backside any exterior trade walls the Western Europeans might consider erecting with the movement toward greater

economic unification symbolized by 1992.

For the Baltic states a Free Trade Agreement would underpin political as well as economic independence and give incentive for Westerners to make Latvia, and Estonia not only models of a free future, but ports of entry and exit ala Hong Kong for commerce with the Soviet Union.

Accordingly, I will this week be introducing legislation calling on the administration to commence early negotiations with the individual countries of Eastern Europe and the Baltic region, as on a case-by-case basis they establish constitutional democracies, adopt free enterprise, and move forthcomingly to guarantee rights of minorities, whether they be political, social, or ethnic. Clearly, certain complex CoCom limitations will have to be maintained as will rules to assure products exported under free trade arrangements are primarily of Eastern European and Baltic origin, but the fundamental premise of free and fair trade with this region is simple. The more tied with the West these countries become, the greater our strength and economic well-being.

Fifth, despite budget problems at home and the contingent liabilities implicit in lending from international financial institutions, the United States should become a constructive partner in the proposed European Bank for Reconstruction and Development [EBRD]. At a time when substantial troop reductions are under serious consideration in the European theater, the United States should replace military leadership with economic. Now may be a time to reduce troops; it isn't time to reduce economic ties. America cannot turn its back on Europe, especially at this time of such wrenching—and hopeful—economic and political transition.

From a self-interested perspective, United States participation in the EBRD allows our voice to be heard on strategic issues, such as potential Soviet borrowing, and represents a decrease in funding liabilities—we will have a 10 percent stake—as contrasted with direct assistance or the price tag of our participation in most other international institutions.

Of interest as well, leadership of the EBRD springs from France and disproportionally, Western and southern Europe. The United States may be reluctant to see the establishment of a new international financial institution, but if we want cooperation in other areas of trade and finance—from GATT to commercial bank standards to the Brady plan to potential debt reduction in Eastern Europe—we have an obligation to work constructively with ideas that emerge from Paris as well as Washington.

Finally, a note about the Baltics. President Bush has little choice but to take a low key tract, but there should be no misunderstanding in Moscow about the coincidence of American values and Baltic aspirations. Increased Muscovite coercion in the Baltics will jeopardize progressive Soviet trade ties with the West. Export-Import Bank guarantees, Overseas Prive Investment Corporation insurance, Soviet loans from or membership in the International Monetary Fund and World Bank, United States commercial bank loans to the Soviet Union, relaxation of CoCom export controls, the granting of most-favored-nation trade status, the extension of tariff benefits under the Generalized System of Preferences—all become jeopardized.

The Baltic problem may be Moscow's most vexing and, given the critical nature of this juncture in arms control discussions, inconvenient for the United States. Nevertheless, it cannot be ignored; nor can Baltic freedom be sacrificed for the advancement of other Western interests. The West may be in the process of winning World War III without firing a shot in Eastern Europe, but a new kind of economic war—with isolation rather than engagement being its most formidable tactic—may erupt with the Soviet Union if freedom in the Baltics is squelched.

Given the tenuousness of the change taking place in Eastern Europe and the chanciness of independence in the Baltics, the West can neither afford division nor lack of commitment and resolve. With the exception of the two cataclysmic wars of this century, what is taking place in Europe today is of unrivaled significance since, and perhaps including, the French Revolution. History demands that Washington not lose sight of what really matters at this time. The consequences would be too grave.

CONFERENCE REPORT ON H.R. 4404, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mr. WHITTEN submitted the following conference report and statement on the bill (H.R. 4404) making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-493)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4404) "making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes, "having met, after full and free conference, have agreed to recommend and to recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 19, 34, 52, 66, 68, 72, 76, 77, 98, 102, 103, 108, 109, 112, 121, 122, 132, 133, 134, 135, 148, 166, 177, 179, and 180.

That the House recede from its disagreement to the amendments of the Senate numbered 7, 10, 13, 21, 31, 50, 61, 86, 90, 91, 92, 94, 95, 105, 106, 110, 119, 120, 125, 128, 129, 139, 146, 149, 150, and 156, and agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert *Departments of Commerce and Justice, the Judiciary, and Related Agencies*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$80,800,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$39,500,000*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$3,000,000*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$62,000,000*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Missile procurement, Army, 1990/1992, $50,700,000;

Procurement of weapons and tracked combat vehicles, Army, 1990/1992, $5,500,000;

And the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$45,200,000*; And the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$51,000,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Aircraft procurement, Navy, 1988/1990, $30,000,000;

Weapons procurement, Navy, 1989/1991, $40,600,000;

Weapons procurement, Navy, 1990/1992, $17,201,000;

And the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Other procurement, Navy, 1990/1992, $2,000,000;

Procurement, Marine Corps, 1990/1992, $15,200,000;

And the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$27,000,000*; and the Senate agree to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$102,358,000*; and the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$20,000,000*; and the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

, and $10,000,000 shall be used to provide assistance, through the National Endowment for Democracy and other groups, to support programs and activities of organizations to encourage negotiations leading to a peaceful transition to a genuine democracy based on universal suffrage within a united South Africa, as follows:

(a) SUSPENSION OF VIOLENCE.—An organization which has engaged in armed struggle or other acts of violence shall be eligible for assistance under this section only if that organization is committed to a suspension of violence in the context of negotiations to establish a democratic system of government in South Africa.

(b) PROHIBITION ON USING FUNDS TO SUPPORT VIOLENCE.—In order to receive assistance under this section, an organization must agree that it will not use any of the funds made available to it under this section for the purpose of supporting physical violence by any individual, group, or government.

And the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment, insert *$10,000,000*; and the Senate agree to the same.

Amendment numbered 116:

That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$3,100,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 2, 3, 6, 8, 9, 11, 12, 14, 15, 16, 17, 18, 20, 22, 23, 24, 25, 29, 38, 39, 40, 41, 43, 45, 46, 47, 48, 49, 51, 53, 54, 55, 56, 57, 58, 59, 60, 62, 63, 64, 65, 67, 69, 70, 71, 73, 74, 79, 81, 82, 83, 84, 85, 87, 88, 89, 93, 96, 97, 99, 100, 101, 104, 107, 111, 113, 114, 115, 117, 118, 123, 124, 126, 127, 130, 131, 136, 137, 138, 140, 141, 142, 143, 144, 145, 147, 151, 152, 153, 154, 155, 157, 158, 159, 160, 161, 162, 163, 164, 165, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, and 178.

JAMIE L. WHITTEN,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES,
DAVID R. OBEY,
EDWARD R. ROYBAL,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
W. G. (BILL) HEFNER,
SILVIO O. CONTE
(except amendment No. 171),
VIRGINIA SMITH
(except amendment No. 171),
MICKEY EDWARDS
(except amendment No. 171),
BILL GREEN
(except amendments Nos. 24 and 171),
HAROLD ROGERS
(except amendment No. 171),

Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
JAMES A. MCCLURE,
THAD COCHRAN,
ROBERT W. KASTEN,
ALFONSE M. D'AMATO,
WARREN B. RUDMAN,
ARLEN SPECTER,
PETE V. DOMENICI,
ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
PATRICK J. LEAHY,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
HARRY REID,
BROCK ADAMS,
WYCHE FOWLER, Jr.,
BOB KERREY,
CHUCK GRASSLEY,
DON NICKLES,
PHIL GRAMM,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4404) making supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

INTRODUCTION

This conference report brings together H.R. 4404 as it passed the House as a supplemental which, under Senate rules, was increased by adding a number of items. H.R. 4828 was introduced in the House which included numerous items added by the Senate to H.R. 4404, many of which the House conferees support but which were left out of H.R. 4404, the original House bill.

H.R. 4828 included funds to meet needs identified after completion of House action on H.R. 4404 on April 3. These include the floods in Arkansas, Louisiana, Oklahoma, and Texas; poor responses to the Census; a greater need for food stamps; older American employment services; disease prevention mostly for measles; Head Start; school dropout prevention; additional veterans loan guarantees, additional veterans medical care; and emergency fire repairs for the Corps of Engineers headquarters building.

The conferees on H.R. 4404 agreed to consider these matters as well as the matters in conference on H.R. 4404.

The result is a bill on which the conferees, House and Senate, have agreed.

The agreement includes the following major activities:

Disaster Assistance	$216,000,000
Census	110,000,000
Economic Support Panama	420,000,000
Economic Support Nicaragua	300,000,000
Forest Firefighting Funds	434,000,000
Older American Community Service Employment	10,000,000
State Unemployment Service Operations	100,000,000
Disease Prevention (measles vaccine)	30,000,000
Low Income Home Energy Assistance	50,000,000
Head Start	166,000,000
School Drop-Out Prevention	20,000,000
Food Stamp Program	1,200,000,000
Veterans Pensions	190,000,000
Veterans Loan Guaranties	245,000,000
Veterans Medical Care	94,000,000
Low-Income Housing	72,000,000

TITLE I—DISASTER ASSISTANCE

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL EXPENSES

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and

concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

GENERAL EXPENSES

For additional expenses to meet the present emergency needs for "General expenses", $15,000,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For additional expenses to meet the present emergency needs for "Operation and maintenance, general", $40,000,000, to remain available until expended.

And in Title I of the House engrossed bill, strike the matter included under the heading Federal Emergency Management Agency, Disaster Relief (page 2, lines 24 and 25, and page 3, lines 1 and 2), and insert the following:

For additional expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $50,000,000, to remain available until expended, which, together with $350,000,000 uncommitted and unobligated identified by the Federal Emergency Management Agency to be presently available, will provide over $400,000,000 for relief and assistance.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $15,000,000 for "General expenses" of the Corps of Engineers to cover the costs incurred as the result of the fire that damaged their Corps' Washington headquarters. Funds are also provided, $40,000,000, for "Operations and maintenance, general" urgently needed to repair the damage to Government facilities caused by the recent severe flooding in the South and Southwest United States. These funding amounts were included in H.R. 4828 which was introduced in the House of Representatives.

The conferees are aware of the severe flooding currently being experienced in the Texas, Louisiana, and Oklahoma areas. For many of these areas this is the flood of record, exceeding flooding events experienced more than fifty years ago.

The conferees also understand that numerous Federal flood control facilities and projects have been damaged and are in need of repair or rehabilitation, which is expected to require several million dollars. The full extent of the damage and associated repair costs will not be fully known until flood waters recede.

The conference agreement contains a total of $60,000,000 in funding for Flood and Coastal Emergencies of the Corps of Engineers for flood emergency preparation, flood fighting and rescue operations, and for the repair of flood facilities; and for other emergency operation and maintenance needs of the Corps.

The conferees strongly urge the Corps to use existing emergency and other project authorities to repair or rehabilitation damaged flood control facilities, and where necessary, to use available resources to fund the work. The conferees expect that funds taken from other activities be returned at the earliest possible time.

Within any funds available to the Corps of Engineers, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct, operate, and maintain the Fulton Historical Center in the vicinity of the Lock C site at Fulton, Mississippi, in accordance with the plans that have been developed by the Corps of Engineers' Mobile District, under the terms and conditions for completion of recreation facilities on the Tennessee-Tombigbee Waterway provided for in Public Law 99-88.

The conference agreement includes language under the Federal Emergency Management Agency appropriating $50,000,000 for the disaster relief account, which, together with $350,000,000 in unobligated funds identified as presently available, will provide $400,000,000 for relief and assistance. This language was included in the House introduced bill (H.R. 4828). The House and Senate passed versions of H.R. 4404 only provided for the appropriation of new funds.

Recently, severe storms, tornadoes and flooding have devastated parts of Alabama, Arkansas, Georgia, Louisiana, Mississippi, Oklahoma, Tennesse, and Texas. At least 13 deaths have been related to the disasters. At least 100 counties have been declared disaster areas or are being surveyed in the affected states. Accordingly, the conferees direct that of the funds appropriated in this Act, and from funds previously appropriated to the Federal Emergency Management Agency for disaster relief programs, such funds as necessary shall be made available to disaster declared areas in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

DEPARTMENT OF AGRICULTURE

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$70,000,000, of which $10,000,000 shall be available for the Emergency Conservation Program of the Agricultural Stabilization and Conservation Service: Provided, That the Soil Conservation Service and the Agricutural Stabilization and Conservation Service are expected to address the needs arising from more recent disasters and, to the greatest extent possible, to continue to address the remaining needs form Hurricane Hugo: Provided further, That such funds are*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $60,000,000 for the Emergency Watershed Protection Program of the Soil Conservation Service and $10,000,000 for the Emergency Conservation Program of the Agricultural Stabilization and Conservation Service. An additional $10,000,000 is made available elsewhere in the bill for the Emergency Conservation Program of the Agricultural Stabilization and Conservation Service, for a total of $20,000,000. H.R. 4828, introduced in the House of Representatives, contained a total of $60,000,000 for the Soil Conservation Service and $20,000,000 for the Emergency Conservation Program of the Agricultural Stabilization and Conservation Service. The amount included in the agreement reflects the latest available estimates to meet the needs arising from natural disasters.

The conference agreement further provides that the Soil Conservation Service and the Agricultural Stabilization and Conservation Service are expected to address the needs arising from more recent disasters and, to the greatest extent possible, to continue to address the remaining needs from Hurricane Hugo.

The Appropriations Act for fiscal year 1990 included funding to operate and fully staff the Newport, Arkansas regional office of the Arkansas ground water conservation study. The conferees expect this office and other Arkansas SCS programs to be fully maintained.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $11,000,000 for disaster payments to carry out section 201(k)(2) of the Agricultural Act of 1949 for 1990 crops damaged by a natural disaster in 1989. This provision was also included in the House introduced bill (H.R. 4828).

Amendment No. 4: Deletes language proposed by the Senate regarding 31 U.S.C. 1513.

The conferees understand that as a direct result of the unanticipated inclusion of sequestration in the fiscal year 1990 reconciliation legislation, many agencies are being required to make staff reductions and to close offices that were not contemplated during the orderly appropriations process. The conferees are including a government-wide provision that permits funds apportioned for the fourth quarter to be used in the third quarter, where necessary. This will give agencies a longer time to develop alternative saving proposals or to develop supplemental appropriations requests. It is important that essential services such as food inspection, air traffic safety, law enforcement efforts, and the like not be unnecessarily curtailed.

It is expected that this will be used only in those instances where, after all other responsible alternatives have been exhausted, an agency would be forced to furlough employees or to close offices temporarily. The conferees expect those utilizing this provision to be accountable.

TITLE II—SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENTS OF COMMERCE AND JUSTICE, THE JUDICIARY, AND RELATED AGENCIES

Amendment No. 5: Inserts the heading, "Departments of Commerce and Justice, the Judiciary, and Related Agencies" as specified in the House introduced bill (H.R. 4828) instead of "Department of Justice and the Judiciary" as proposed by the House in the original Dire Emergency Supplemental and "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies" as proposed by the Senate as an amendment to that bill.

DEPARTMENT OF COMMERCE

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic Development Assistance Programs",

$424,000 for planning assistance for Economic Development Districts authorized by section 301(b) of the Public Works and Economic Development Act of 1965, as amended, which shall be obligated only for grants to maintain the level of assistance in effect on September 30, 1989, for each development district.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

The limitation on the use of prior year funds for the Trade Adjustment Assistance Program, enacted under this head in Public Law 101-162, is repealed and funds appropriated for this program for fiscal year 1990 and prior years are available for obligation.

For an additional amount for "Operations and Administration", $1,445,000 which shall be obligated only for the Trade Adjustment Assistance Program for grants to recipient organizations.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the heading "Department of Commerce" that was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental. The conference agreement also includes a supplemental appropriation of $424,000 for the Economic Development Administration to maintain the level of planning grant assistance that was in effect for each economic development district as of September 30, 1989. This amount was included in the House introduced bill (H.R. 4838). The conference agreement also includes a language provision for the International Trade Administration repealing a limitation contained in the Fiscal Year 1990 Appropriations Act (P.L. 101-162) on the use of funds for the Trade Adjustment Assistance Program, and a supplemental appropriation of $1,445,000 for the Trade Adjustment Assistance Program. These provisions were also included in the House introduced bill (H.R. 4828). These provisions in the conference agreement, together with funds already available for fiscal year 1990, will provide a total of $14,517,000 and will ensure that all Trade Adjustment Assistance Centers will be able to remain open and maintain all planned commitments and services to clients for the current fiscal year.

BUREAU OF THE CENSUS

Amendment No. 7: Inserts a heading as proposed by the Senate. This heading was also included in the House introduced bill (H.R. 4828).

PERIODIC CENSUSES AND PROGRAMS

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment.

The conference agreement appropriates $110,000,000 to the Bureau for additional costs for the decennial census due to lower-than-expected response and employee productivity rates. This amount was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental. The conferees expect the Bureau of the Census to first use funds already appropriated before obligating any of the funds made available by this supplemental appropriations bill.

ADMINISTRATIVE PROVISION

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

ADMINISTRATIVE PROVISION

Services performed after April 20, 1990 by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population shall not constitute "Federal service" for purposes of section 8501 of title 5, United States Code.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides that services performed after April 20, 1990 by temporary employees of the Bureau of the Census for purposes relating to the 1990 decennial census shall not constitute "Federal service" for purposes of section 8501 of title 5, United States Code. This provision was included in the House introduced bill (H.R. 4828). The Senate amendment to the original Dire Emergency Supplemental contained language providing that services performed by temporary employees of the Bureau of the Census for purposes relating to the 1990 decennial census (as determined under regulations prescribed by the Secretary of Commerce) shall not constitute "Federal service" for purposes of section 8501 of title 5, United States Code.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Amendment No. 10: Inserts a heading as proposed by the Senate. This heading was also included in the House introduced bill (H.R. 4828).

OPERATIONS, RESEARCH, AND FACILITIES

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $8,762,000, to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment would have provided a supplemental appropriation of $15,482,000 for the Operations, Research, and Facilities account. The House bill contained no similar provision.

The conference agreement provides $8,762,000 in supplemental funds for the Operations, Research, and Facilities account. Of the total supplemental appropriation, $6,500,000 is provided for damage assessment analyses of the *Exxon Valdez* oil spill. This amount, together with $1,500,000 already appropriated, will provide a total of $8,000,000 for fiscal year 1990 for this activity. The remaining $2,262,000 in this supplemental appropriation, together with $4,600,000 in NEXRAD contract savings and $620,000 already appropriated and obligated for a ground satellite station and computer, will provide the resources to the National Weather Service to begin monitoring volcanic eruptions from Mount Redoubt in Alaska.

ADMINISTRATIVE PROVISION

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, a procurement for the Stuttgart, Arkansas, Fish Farming Experimental Laboratory shall be issued by the Administrator of the National Oceanic and Atmospheric Administrator or the Director of the United States Fish and Wildlife Service which includes the full scope of the work described in Department of the Interior Task Order No. 89-025, Contract No. 14-16-0009-86-007: Provided, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18; and also $6,000,000 is hereby appropriated to the United States Fish and Wildlife Service to procure a wildlife refuge site at no more than appraised market value and without the use of condemnation procedures at a location in Jasper and Marion Counties, Iowa, identified in a location map on file with the United States Fish and Wildlife Service and entitled "Walnut Creek National Wildlife Refuge".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes an administrative provision that was included in the House introduced bill (H.R. 4828), and as a Senate amendment to the original Dire Emergency Supplemental, which permits certain construction at the Stuttgart, Arkansas, Fish Farming Laboratory to begin in fiscal year 1990, notwithstanding the availability of funds. The conference agreement also includes a new provision not in either the House or Senate bills appropriating $6,000,000 to the Fish and Wildlife Service for procurement of a site for a wildlife refuge in central Iowa.

An unusual and unexpected opportunity has arisen to acquire a site for a wildlife refuge and outdoor laboratory on a tributary of the Des Moines River in central Iowa. Iowa is one of only two states which has no national park. In addition, virtually all of the land in Iowa has been homesteaded, cleared, and cultivated since the middle of the nineteenth century. A block of land is now available which is located completely within one watershed and if returned to its indigenous state would offer an unusual opportunity for interpretive programs, wetlands, a habitat for some 300 species of indigenous and migratory birds, the regrowth of many acres of now scarce species of trees, buffalo and elk which were indigenous to the area, and the largest native prairie grass fields in Iowa. It is estimated by the U.S. Fish and Wildlife Service that the area, properly managed, could also produce 3,000 ducks annually and support peak fall migrations of 30,000 ducks and 5,000 geese. It is adjacent to an area which is a stopover by thousands of woodstorks and white pelicans.

The proposal for such a refuge has been recommended by the Des Moines River Greenbelt Advisory Committee consisting of representatives of nine counties and several cities in the Des Moines River Greenbelt area and representatives of state government. It has also been approved by the Iowa Department of Natural Resources and numerous local officials.

A power company acquired most of the site for construction of a generating station and cooling facilities. It was obtained by voluntary purchase from numerous landowners, but the power company has recently abandoned these construction plans. But for this unexpected and unusual opportunity, such a uniquely suitable site would not be

available. Over one million people, including tens of thousands of school children, would be within easy driving distance and could use the area as an outdoor study area. The site should be acquired while it is still available.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

Amendment No. 13: Inserts a heading as proposed by the Senate. This heading was also included in the House introduced bill (H.R. 4828).

SALARIES AND EXPENSES, ANTITRUST DIVISION

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SALARIES AND EXPENSES, ANTITRUST DIVISION

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, Antitrust Division", $2,500,000 to be derived by transfer from "Salaries and expenses, Federal Prison System".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $2,500,000 to be derived by transfer from surplus amounts in the Salaries and Expenses appropriation of the Federal Prison System. This provision was included in the House introduced bill (H.R. 4828). The Senate amendment to the original Dire Emergency Supplemental provided new budget authority of $2,500,000.

The conferees agree that these additional funds, needed to cover anticipated shortfalls in the collection of fees under the Hart-Scott-Rodino Act, are sufficient to allow the Antitrust Division to maintain its current level of operations for the remainder of fiscal year 1990.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

(TRANSFER OF FUNDS)

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which proposed an additional $7,400,000 for U.S. Marshals Service activities to be derived by transfer from surplus amounts in the Federal Prison System, Salaries and Expenses appropriation. This provision was also included in the House introduced bill (H.R. 4828). The conference agreement provides funds needed to handle unanticipated Marshals Service costs resulting from heightened security associated with the bombings in the Eleventh Judicial Circuit, an increased number of drug cases, and the trial of Manuel Noriega.

FEES AND EXPENSES OF WITNESSES

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, which proposed an increase of $2,600,000 to the Fees and Expenses of Witnesses account. This provision was also included in the House introduced bill (H.R. 4828). The conference agreement will allow for the continuation of the services of the Witness Security Program, which is currently underfunded due to the sudden increase in drug cartel investigations.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $185,000,000, to remain available until expended, to defray expenses for the automation of fingerprint identification services including planning, site acquisition, construction, and other associated costs: Provided, That none of the funds included herein shall be available for automated system procurement prior to submission of an implementation plan thereon, pursuant to the notification procedures prescribed under Section 606 of Public Law 101-162, and a site shall not be selected or procured prior to notification of the appropriate Committees of the House of Representatives and the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment proposed an appropriation of $185,000,000 to allow the FBI to relocate and fully automate its Identification Division. The House bill contained no similar provision.

The conferees agree that modernization of the FBI's Identification Division (ID) is vitally needed. The ID provides fingerprint identification services on a nationwide basis to the criminal justice community. Currently several problems exist which threaten State and local law enforcement's heavy dependence on the ID. First, the ID has an extensive backlog of over 700,000 fingerprint cards and 2,000,000 criminal dispositions that are unfiled and unavailable. This backlog can be directly attributed to the instability of a workforce which experiences turnover rates that range from 15-30 percent annually. This high turnover results from the ID's inability to retain a predominantly low-graded, clerical workforce in a high cost of living area. Secondly, advances in technology have made the current ID system obsolete and unable to meet the demands of Federal, State and local law enforcement. Many States have far outdistanced the FBI in developing new automated fingerprint identification systems; however, these States are not automating in a consistent manner.

The conferees believe that the combination of the processing backlogs created by personnel shortages and the obsolescence of the current ID system will ultimately result in the collapse of this critical component of the criminal justice system. The conferees believe that the FBI should begin the planning and development of this modernized ID in fiscal year 1990 and the conference agreement provides $185,000,000 for this purpose. However, the conferees agree that the final decision on implementation of any FBI automation proposal depends upon the selection of an adequate automated system and must be made in consultation with the Congress. The conference agreement includes bill language which precludes the use of these funds for procurement of an automated system until after the notification procedures of the Committees on Appropriations of the House and Senate have been complied with. A final site has not been selected, and the conferees expect that, prior to any procurement of a site, justifications will be presented to the Congress, including a list of sites considered and the reasons used in determining the preferred site. The conferees also agree, regardless of the location of the proposed site, that current ID employees should be guaranteed employment either at the new site or with other FBI organizations in the greater metropolitan Washington D.C. area.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

The language under this heading in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1000-1001), is amended by adding the following after the period, "Deposits transferred from the Assets Forfeiture Fund to the Buildings and Facilities account of the Federal Prison System in 1989 may be used for the construction of correctional institutions, and the construction and renovation of Immigration and Naturalization Service and United States Marshals Service detention facilities, and for the authorized purposes of the Support of United States Prisoners' Cooperative Agreement Program.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides authority for the Department of Justice to utilize funds transferred from the Assets Forefiture Fund to the Federal Prison System for construction of additional prison space to also be available for construction of U.S. Marshals Service detention facilities for unsentenced prisoners, for INS criminal alien detention facilities, and for Marshals Service facilities constructed under the Cooperative Agreement Program (CAP). This provision was also included in the House introduced bill (H.R. 4828). The Senate amendment to the original Dire Emergency Supplemental included the authority to construct, renovate and repair INS and Marshalls Service facilities.

The conference agreement will allow the Federal Prison System to reduce its current overcrowding by transferring unsentenced or illegal alien prisoners to new or expanded detention facilities, which can be opened faster than new prisons. The conference language provides the Marshals Service the ability to begin the renovation of its existing holding cells which are, for the most part, outdated and fail to meet Federal standards. Further, the agreement will allow the INS to use approximately $10,000,000 of the Assets Forefeiture Fund transfer to expand the capacity of five existing detention facilities by a total of 575 beds. Lastly, the conference agreement will allow the Marshals Service to use approximately $20,000,000 from the Fund to acquire over 1,000 additional bedspaces under the CAP program. In every instance, these projects are ready to be acted on, but lack the necessary funding. The conference language will make such funding available now.

The conferees expect that, for projects constructed under this new authority, the Department will work closely with State and local officials to assure community discussion, consideration and input on these projects. In addition, it is expected that all appropriate action will be taken to give interested parties adequate opportunity to voice concerns with any project, so that these concerns may be reflected in final planning.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SECRETARY'S SPECIAL LITHUANIA INDEPENDENCE AND RECOGNITION FUND

Amendment No. 19: Deletes the Senate amendment which would have appropriated $10,000,000 for certain expenses of establishing a United States Embassy in Lithuania as soon as possible in the event that the United States formally recognizes the independent government of the Republic of Lithuania. The House bill contained no provisions on this matter.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$25,503,000, and in addition, $4,500,000 to be derived by transfer from "Defender Services"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides new budget authority of $25,503,000 and authority to transfer $4,500,000 from surplus amounts in the Defender Services appropriation for a total of $30,003,000. This provision was included in the House introduced bill (H.R. 4828). The Senate amendment to the original Dire Emergency Supplemental provided new budget authority of $23,003,000.

The conference agreement provides: $5,253,000 for the mandatory costs associated with the 1990 pay raise for Federal judges, $22,750,000 to offset shortfalls in fee collections, and $2,000,000 to cover a shortfall in the Drug Dependent Offenders Program.

RELATED AGENCIES

Amendment No. 21: Inserts a heading as proposed by the Senate. This heading was also included in the House introduced bill (H.R. 4828).

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

FEDERAL SHIP FINANCING FUND

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

FEDERAL SHIP FINANCING FUND

For the "Federal Ship Financing Fund", $750,000, to remain available until expended: Provided, That, notwithstanding any other provision of law, these funds shall be available to the Federal Maritime Administrator of the Department of Transportation only to acquire an appropriate vessel for transfer to the Government of the Territory of American Samoa to be used by that Government for inter-island transportation of cargo and passengers, and for repairs and maintenance necessary to provide for the United States Coast Guard's certification of such vessel: Provided further, That the Department of Defense shall transport such vessel to American Samoa without reimbursement and any appropriations available to the Department of Defense shall be available for this purpose.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides an appropriation of $750,000 to the Federal Ship Financing Fund to acquire an appropriate vessel for transfer to the Government of American Samoa to be used for inter-island transportation and for repairs and maintenance necessary to provide for U.S. Coast Guard certification of the vessel. The conference agreement also includes language requiring the Department of Defense to transport such vessel to American Samoa without reimbursement and makes appropriations to the Department of Defense available for this purpose. The Senate amendment to the original Dire Emergency Supplemental contained an administrative provision for the Maritime Administration which would have required the transfer of a certain vessel to the Government of American Samoa without reimbursement and would have required the Department of Defense to pay the cost of transporting the vessel to American Samoa without reimbursement. The House introduced bill (H.R. 4828) contained a $750,000 appropriation to the Federal Ship Financing Fund, subject to the enactment of an authorization, for the transfer of a certain ship to the Government of American Samoa and for the cost of refurbishing such vessel.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment appropriating $2,500,000 for the Federal Trade Commission. This amount was also included in the House introduced bill (H.R. 4828).

The conferees have received reports that the Commission's staff has develped a proposed policy that would limit the free transfer of soft drink franchises from one local bottler to another. The effective distribution of soft drinks in any given area depends critically on local bottling operations. As Congress recognized in enacting the Soft Drink Interbrand Competition Act of 1980, promoting competition among soft drink concentrate manufacturers should be of primary concern to policymakers in this industry. The conferees expect that the Commission will review its soft drink franchise transfer policies carefully, to ensure that those policies take account of the goals of Congress in enacting the 1980 Soft Drink Act.

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

The Defense conference agreement on Supplemental Appropriations for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending, 1990, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 101-434 and Senate Report 101-272 should be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

PROCUREMENT

PROCUREMENT OF AMMUNITION, ARMY

(INCLUDING RESCISSION)

For an additional amount for "Procurement of Ammunition, Army", $238,000,000, to be used only for the construction of the RDX production facility at the Louisiana Army Ammunition Plant to remain available for obligation until September 30, 1992: Provided, That of the funds appropriated under this heading in the Department of Defense Appropriations Act, 1988 (Public Law 100-202; 101 Stat. 1329-51), $238,000,000 are rescinded.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ICEBREAKER

The House and Senate Committees on Appropriations have approved a transfer of funds within the Department of Defense to address funding shortfalls for CHAMPUS and Military Personnel. $50,000,000 of the funds transferred are from the fiscal year 1990 appropriations for one icebreaker. The conferees believe these funds are available based on the acquisition plan for the first vessel.

The conferees understand that the remaining $274,000,000 of the $329,000,000 appropriated for fiscal year 1990 fully funds construction of the first icebreaker.

The conferees direct that the Navy and Coast Guard proceed to acquire the first icebreaker with these funds.

The conferees recognize that additional funding may be required for specific outfitting and defense related features, and expect the Coast Guard and the Navy to report such additional requirements and estimates to the Congress not later than August 15, 1990.

The conferees believe that the icebreaker construction program remains a top priority for both the Navy and the U.S. Coast Guard, and expect the Navy and the Coast Guard to expeditiously proceed to acquire the first new icebreaker.

MILITARY CONSTRUCTION

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first sum named in said amendment, insert: *$7,000,000*

In lieu of the second sum named in said amendment, insert: *$3,000,000*

The managers on the part of the Senate will move to concur in the Amendment of the House to the amendment of the Senate.

The conference agreement appropriates $7,000,000 for Military Construction, Army National Guard instead of $9,000,000 as proposed by the Senate. This conference agree-

ment amount was included in the House introduced bill (H.R. 4828). The conference agreement also appropriates $3,000,000 for Military Construction, Army Reserve instead of $9,000,000 as proposed by the Senate. This conference agreement amount was also included in the House introduced bill (H.R. 4828).

The conferees expect the Department to utilize such funds for reprogrammings to finance project cost deficiencies.

GENERAL PROVISIONS

(RESCISSIONS)

Both the House and Senate bill rescinded certain Department of Defense prior year unobligated balances to offset new obligational authority for other programs funded in the bill. The total rescinded in the House bill was $1,796,792,000; the total rescinded in the Senate bill was $1,540,974,000. The conference agreement rescinds $2,028,461,000. The programmatic detail of the conference agreement on rescissions is shown in the table below:

Military Personnel, Air Force:	
Permanent Change of Station Travel	100,984,000
Other Military Personnel Costs	3,500,000
Total	104,484,000
Operation and Maintenance, Army:	
DOD Directed Management Savings	35,800,000
Overseas Repair	27,000,000
Flying Hours	18,000,000
Total	80,800,000
Operation and Maintenance, Navy:	
DOD Directed Management Savings	28,500,000
IOWA Turret Repair	11,000,000
Total	39,500,000
Operation and Maintenance, Marine Corps:	
DOD Directed Management Savings	3,000,000
Operation and Maintenance, Air Force:	
DOD Directed Management Savings	20,000,000
SR-71	140,000,000
Fuel Inventory	200,000,000
Overseas Repair	20,000,000
Total	380,000,000
Operation and Maintenance, Defense Agencies:	
DOD Directed Management Savings	17,000,000
CINC Initiatives	45,000,000
Total	62,000,000
Operation and Maintenance, Army Reserve:	
DOD Directed Management Savings	896,000
Operation and Maintenance, Navy Reserve:	
DOD Directed Management Savings	209,000
Operation and Maintenance, Air Force Reserve: DOD Directed Management Savings	1,190,000
Operation and Maintenance, Army National Guard: DOD Directed Management Savings	2,125,000
Operation and Maintenance, Air National Guard: DOD Directed Management Savings	2,199,000
Aircraft Procurement, Army, 1990-92: OV-1D Modifications	16,000,000
Missile Procurement, Army, 1990-92: Spares and Repair Parts	50,700,000
Procurement of Weapons and Tracked Combat Vehicles, Army, 1990-92: BFVS Modifications	5,500,000
Procurement of Ammunition, Army, 1990-92:	
M483 155mm Ammunition	45,000,000
Spares and Repair Parts	200,000
Total	45,200,000
Other Procurement, Army, 1988-90: Reserve Component Automation System	23,000,000
Other Procurement, Army, 1989-91: Reserve Component Automation System	30,000,000
Other Procurement, Army, 1990-92:	
Echelon Above Corps Communications	11,000,000
Spares and Repair Parts (BA 1)	1,700,000
Spares and Repair Parts (BA 2)	37,300,000
Simnet/Close Combat Tactical Trainer	1,000,000
Total	51,000,000
Aircraft Procurement, Navy, 1988-90: Spares and Repair Parts	30,000,000
Weapons Procurement, Navy, 1989-91: Tacit Rainbow	40,600,000
Weapons Procurement, Navy, 1990-92:	
AMRAAM (MYP)	6,000,000
Small Arms and Weapons	5,700,000
CIW Mods	5,501,000
Total	17,201,000
Other Procurement, Navy, 1988-90: AN/BLD-1 Interferometer	16,500,000
Other Procurement, Navy, 1990-92: Installation of Mod Equipment	2,000,000
Total	2,000,000
Procurement, Marine Corps, 1990-92: PLRS	15,200,000
Aircraft Procurement, Air Force, 1990-92:	
F-4G Wild Weasel	30,700,000
MC-130H-SOF	1,093,000
AC-130 Gunship-SOF	1,521,000
C-27A	473,000
Tanker, Transport, Trainer System	938,000
MH-60G	1,297,000
F/RF-4	12,300,000
C-130	1,700,000
C-135 (MYP)	1,000,000
OV-10	2,000,000
Spares and Repair Parts	5,300,000
Industrial Responsiveness	704,000
Other Production Charges	5,838,000
Total	64,864,000
Missile Procurement, Air Force, 1988-90: Classified	34,900,000
Missile Procurement, Air Force, 1989-91: Sidewinder Modifications	25,000,000
Missile Procurement, Air Force, 1990-92:	
Peacekeeper (M-X)	11,140,000
Missile Replacement Equip-Ballistic	5,000,000
Adv Cruise Missile	132,000
SRAM-II	69,000
Spares and Repair Parts	6,900,000
Defense Satellite Comm System (MYP)	901,000
Classified Programs	30,000,000
Inflation Savings	16,000,000
Total	70,142,000
Other Procurement, Air Force, 1989-90: MARV	17,900,000
Other Procurement, Air Force, 1990-92: Special Update Program	45,805,000
Research, Development, Test and Evaluation, Defense Agencies, 1989-90: DOT&E Imp. Programs	25,000,000
Research, Development, Test and Evaluation, Defense Agencies, 1990-91:	
EEMIT	10,000,000
DNA	10,000,000
WWMCCS	10,000,000
Advanced Submarine Technology	10,000,000
Non Acoustic ASW	10,000,000
OSD Support	5,000,000
Air Defense Initiative	15,000,000
Total	70,000,000
Research, Development, Test and Evaluation, Army, 1989-90:	
R&D on NDI Items	10,000,000
Logistics Technology	3,000,000
Aircraft Modification/ Product Improvement	5,000,000
Total	18,000,000
Research, Development, Test and Evaluation, Army, 1990-91:	
Armored Systems Modernization	26,000,000
Landmine Warfare	5,000,000
Combat Feeding, Clothing, Equipment	4,000,000
Chemical Biological Defense Equipment	7,000,000
Exploitation of Foreign Items	3,000,000
SADARM	10,000,000
Screening/Smoke Material	5,000,000

Aviation—Adv. Development	4,000,000
Total	64,000,000
Research, Development, Test and Evaluation, Navy, 1989-90: V-22 ASW Variant	5,000,000
Research, Development, Test and Evaluation, Navy, 1990-91:	
Tacit Rainbow	2,000,000
Counter Communications	2,000,000
Link 11 Improvements	2,000,000
AAAM	4,000,000
Ship Development	3,000,000
P3 Modernization	5,000,000
NATO Frigate Replacement	9,000,000
Total	27,000,000
Research, Development, Test and Evaluation, Air Force, 1989-90:	
Seek Spinner, total	19,900,000
B-1B Cruise Missile	50,000,000
Hypervelocity Missile	2,000,000
WWMCCS	2,000,000
Force Enhancement	4,000,000
Total	77,900,000
Research, Development, Test and Evaluation, Air Force, 1990-91:	
In-House Lab Independent Research	60,000
Defense Research Sciences	1,394,000
Geophysics	120,000
Materials	305,000
Aerospace Flight Dynamics	242,000
Human Systems Technology	170,000
Aerospace Propulsion	339,000
Aerospace Avionics	248,000
Personnel Training and Simulation	141,000
Civil Engineering	47,000
Rocket Propulsion	191,000
Advanced Weapons	125,000
Conventional Munitions	234,000
Command/Control/Communications	347,000
Logistics Systems Technology	75,000
Advanced Materials for Weapons Systems	71,000
Aerospace Propulsion Subsystem Integration	169,000
Advanced Avionics for Aerospace Vehicles	202,000
Aerospace Vehicle Technology	150,000
Aerospace Structures	141,000
Aerospace Propulsion and Power Technology	262,000
Personnel Training and Simulation Technology	61,000
Advanced Fighter Technology Integration	178,000
Advanced Avionics Integration	115,000
Space and Missile Rocket Propulsion	91,000
Hypervelocity Missile	16,000
Advanced Spacecraft Technology	147,000
Space Systems Environmental Interactions	31,000
Conventional Weapons	200,000
Advanced Weapons Technology	647,000
Weather Systems—Advanced Development	57,000
Civil/Environmental Engineering Technology	72,000
C3I Subsystem Integration	62,000
Advanced Computer Technology	63,000
C3I Technology Development	70,000
Advanced Special Operations Research	15,000
Relocatable Target Capability Program	41,000
SRAM II—Engineering Development	1,381,000
Systems Survivability	49,000
KC-135 Squadrons	14,000
Joint Surveillance System	12,000
Surveillance Radar Stations/Sites	86,000
Over-the-Horizon Radar	184,000
SPACETRACK	121,000
Defense Support Program	1,229,000
Minimum Essential Emergency Network	122,000
Intelligence Advanced Development	43,000
Command, Control and Communication Applications	50,000
Aircraft Equipment Development	10,000
Nuclear Weapons Support	14,000
Tanker Transport Training System	23,000
SRAM-T	350,000
Aeromedical Systems Development	47,000
Computer Resources Management Technology	74,000
Overseas Air Weapons Control Systems	13,000
Tactical Air Control Systems	110,000
Airborne Warning and Control Systems	232,000
JT Tactical Command (TRI-TAC)	22,000
MAC Command/Control Systems	70,000
Force Enhancements	246,000
Long-Haul Communications	20,000
NAVSTAR GPS (User Equipment)	384,000
NAVSTAR GPS (Space)	447,000
Space Test Program	665,000
Satellite System Survivability	95,000
Manpower Personnel and Training Development	35,000
Advanced Launch System	1,330,000
Weather Systems—Eng. Develop	46,000
Ranch Hand II Epidemiology Study	10,000
Adv. System Engineering/Plan	55,000
Consolidated Space Ops Center	95,000
Space Shuttle Ops	1,575,000
Classified Project	30,000,000
F-16	10,000,000
F-111	500,000
HAVE SYNC	2,400,000
Range Improvements	3,000,000
F-15	3,000,000
Advanced Launch System	4,000,000
AWACS	3,500,000
COMSEC	500,000
Flight Simulator Development	1,500,000
Seek Eagle	300,000
A-10	2,000,000
AMRAAM	4,000,000
ASMS	4,000,000
Cheyenne Mountain	10,000,000
AWACS	2,000,000
Hypervelocity Missile	1,000,000
Surface Defense Suppression	4,500,000
Total	102,358,000
Navy Stock Fund	15,000,000
Air Force Stock Fund	15,000,000
Defense Stock Fund	78,100,000
Total	108,100,000
Subtotal, Department of Defense	1,775,273,000
Subtotal, Military Construction	253,188,000
Total rescissions, Department of Defense	2,028,461,000

Amendment No. 26: Rescinds $80,800,000 from Operation and Maintenace, Army, instead of $23,305,000 as proposed by the House and $143,308,000 as proposed by the Senate.

Amendment No. 27: Rescinds $39,500,000 from Operation and Maintenance, Navy, instead of $38,834,000 as proposed by the House and $166,093,000 as proposed by the Senate.

Amendment No. 28: Rescinds $3,000,000 from Operations and Maintenance, Marine Corps, instead of $1,582,000 as proposed by the House and $21,236,000 as proposed by the Senate.

Amendment No. 29. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$380,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 30: Rescinds $62,000,000 from Operation and Maintenance, Defense Agencies, instead of $7,132,000 as proposed by the House and $62,056,000 as proposed by the Senate.

Amendment No. 31: Rescinds $16,000,000 from Aircraft Procurement, Army, 1990/1992, as proposed by the Senate instead of $28,600,000 as proposed by the House.

Amendment No. 32: Rescinds $50,700,000 from Missile Procurement, Army, 1990/1992, as proposed by the House instead of no rescission as proposed by the Senate.

Rescinds $5,500,000 from Procurement of Weapons and Tracked Combat Vehicles, Army, 1990/1992, instead of $69,400,000 as proposed by the House and no rescission as proposed by the Senate.

Rescinds no funds from Procurement of Ammunition, Army, 1988/1990, as proposed by the Senate instead of $238,000,000 as proposed by the House.

Amendment No. 33: Rescinds $45,200,000 from Procurement of Ammunition, Army,

1990/1992, instead of $200,000 as proposed by the House and $60,000,000 as proposed by the Senate.

Amendment No. 34: Rescinds $23,000,000 from Other Procurement, Army, 1988/1990, as proposed by the House instead of no rescission as proposed by the Senate.

Rescinds $30,000,000 from Other Procurement, Army, 1989/1991, as proposed by the House instead of no rescission as proposed by the Senate.

Amendment No. 35: Rescinds $51,000,000 from Other Procurement, Army, 1990/1992, instead of $68,100,000 as proposed by the House and $11,000,000 as proposed by the Senate.

Amendment No. 36: Rescinds $30,000,000 from Aircraft Procurement, Navy, 1988/1990, as proposed by the House instead of no rescission as proposed by the Senate.

Rescinds no funds from Aircraft Procurement, Navy, 1990/1992, as proposed by the Senate instead of $83,000,000 as proposed by the House.

Rescinds $40,600,000 from Weapons Procurement, Navy, 1989/1991, as proposed by the House instead of no rescission as proposed by the Senate.

Rescinds $17,201,000 from Weapons Procurement, Navy, 1990/1992, instead of $21,701,000 as proposed by the House and no rescission as proposed by the Senate.

Amendment No. 37: Rescinds $2,000,000 from Other Procurement, Navy, 1990/1992, instead of $22,378,000 as proposed by the House and no rescission as proposed by the Senate.

Rescinds $15,200,000 from Procurement, Marine Corps, 1990/1992, as proposed by the House instead of no rescission as proposed by the Senate.

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$64,864,000;*

Missile Procurement, Air Force, 1988/1990, $34,900,000

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$70,142,000;*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Research, Development, Test and Evaluation, Army, 1989/1990, $18,000,000;

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$64,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 42: Rescinds $27,000,000 from Research, Development, Test and Evaluation, Navy, 1990/1991, instead of $29,598,000 as proposed by the House and $9,000,000 as proposed by the Senate.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$77,900,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 44: Rescinds $102,358,000 from Research, Development, Test and Evaluation, Air Force 1990/1991, instead of $237,542,000 as proposed by the House and $16,158,000 as proposed by the Senate.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$25,000,000;*

Research, Development, Test and Evaluation, Defense Agencies, 1990/1991, $70,000,000;

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

Navy Stock Fund, $15,000,000;

Air Force Stock Fund, $15,000,000;

Defense Stock Fund, $78,100,000;

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

$36,523,000; Family Housing, Air Force, 1986/1990,

$25,200,000; Military Construction, Army, 1986/1990,

$2,850,000; Military Construction, Army, 1987/1991,

$4,295,000; Military Construction, Army, 1988/1992,

$10,470,000; Military Construction, Army, 1989/1993,

$29,931,000; Military Construction, Army, 1990/1994,

$27,700,000; Family Housing, Army, 1990/1994, $6,335,000,

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement rescinds a total of $143,303,000 instead of $17,800,000 as proposed by the House and $36,522,000 as proposed by the Senate. The conference agreements includes a rescission of $27,800,000 as specified in the House introduced bill (H.R. 4828).

The conferees agree that recissions totaling $143,303,000 from fiscal years 1986 through 1990 shall be derived from the following projects:

Family Housing, Air Force 1990-94:	
Germany-Ramstein AB: Family Housing (200 units)	−$18,722,000
Projects outside the United States, Family Housing Construction Improvements.	−17,800,000
Family Housing, Air Force 1986-90:	
Germany-Ramstein AB: Family Housing (400 units)	−25,200,000
Military Construction, Army 1986-90:	
Projects outside the United States, General Reduction	−2,850,000
Military Construction, Army 1987-91:	
Projects outside the United States, General Reduction	−4,295,000
Military Construction, Army 1988-92:	
Projects outside the United States, General Reduction	−10,470,000
Military Construction, Army 1989-93:	
Projects outside the United States, General Reduction	−29,931,000
Military Construction, Army 1990-94:	
Projects outside the United States, General Reduction	−27,700,000
Family Housing, Army 1990-94:	
Projects outside the United States, Family Housing Construction Improvements.	−6,335,000

OPERATION AND MAINTENANCE

Due to the requirement that supplemental appropriations be provided on a deficit neutral basis, the conferees found it necessary to recommend rescissions of funding in the Operation and Maintenance accounts. The conferees note, however, that they have worked closely with the Department of Defense and that $294 million of the rescissions, representing more than one-half of the total recommended reduction, were provided by the Department. Amounts recommended by the Department include $200 million available from a reduction in fuel inventories, $83 million in savings resulting from personnel efficiencies, and $11 million saved through the planned deactivation of the USS IOWA.

DOD Directed Management Savings.—The conferees agree to savings which result from Department of Defense management improvements. These savings include $83 million identified by the Department from the civilian hiring freeze. The conferees expect the Department to reduce those accounts affected by force structure changes. It is further expected that funds for medical programs/CHAMPUS will not be reduced since the Department of Defense has identified a continuing funding shortfall for these efforts. The conferees must emphasize that readiness of deployed combat forces should not be placed at risk and that OPTEMPO should be maintained. The conferees strongly recommend reductions in the areas of management and administration, with particular attention to management headquarters, including the Office of the Secretary

of Defense and the Washington Headquarters Service.

SR-71.—The fiscal year 1990 Defense Appropriations Act included an increase of $175,000,000 to "Operation and Maintenance, Air Force" in Strategic Forces (Budget Activity 1) specifically for continued operation of the SR-71 strategic reconnaissance aircraft. Additional funds in the amount of $32,000,000 were already included in the fiscal year 1990 budget request to cover the costs associated with the termination of the program.

The conferees now direct that $140,000,000 be rescinded from the FY 1990 appropriation due to the decision of Congress to discontinue the SR-71, and that these reductions be taken only from Strategic Forces (Budget Activity 1).

The conferees agree that at least six SR-71 aircraft, tall numbers 956, 962, 967, 971, 968, and 980 and at least six associated reconnaissance and electronic countermeasure sensor systems shall be stored and maintained by the Air Force in such a fashion as to be able to return to full flight operations in no more than 90 days. In addition, the conferees also agree that within funds already available to the Air Force, $4,000,000 shall be used solely to complete the depot maintenance and rework of the SR-71 trainer (tall number 956), and $2,000,000 shall be used solely to maintain the aircraft in a "flight ready" status as defined in T. M. SR-71-17, including periodic servicing of all aircraft fluid systems, engine maintenance, recuring fuel tank sealant, pneumatic system calibration, computer system verifications, spare parts stockage, and the necessary personnel to accomplish these and other tasks.

The conferees also agree that the Air Force and NASA may proceed with plans for the loan of three SR-71 aircraft as outlined by an exchange of letters dated December 22, 1989 and January 9, 1990 between the Administrator of NASA and the Chief of Staff of the Air Force, respectively. The conferees request that copies of the final Memorandum of Understanding between the Air Force and NASA governing the loan of these aircraft be forwarded to the House and Senate Committees on Appropriations.

Finally, the conferees agree that the above outlined program should not be considered a charter for reestablishment of SR-71 flight operations which were terminated as a part of the fiscal year 1990 budget deliberations. The intent of the conferees is to ensure that sufficient assets are protected to permit NASA to conduct necessary aeronautics flight research and to permit the Air Force to reestablish within 90 days SR-71 flight operations due to a crisis contingency or the non-availability of critical National Technical Means.

Synthetic Aperture Radar.—The conferees agrees that the ASARS-1 (Airborne Synthetic Aperture Radar System) sensor originally developed for the SR-71 can continue to provide a significant capability for intelligence collection, drug interdiction, and arms control monitoring. Unfortunately, pending the completion with the Soviets of various treaties and associated monitoring regimes, the Department of Defense cannot at this time clearly define the alternative platforms, such as U-2 or RC-135, which will use a modified ASARS-1. However, regardless of the eventual host platform or specific mission assignment, any potential platform will require that the ASARS-1 be modified to operate in a subsonic environment as opposed to the SR-71 Mach 3 capability. Consequently, except for the 6 ASARS-1 systems to be retained for the SR-71 as discussed elsewhere in this report, the conferees agree that no less than $4,000,000 is available only for costs associated with the common modifications required to slow the performance characteristics of the ASARS-1 independent of the host platform. The conferees estimate that this work will take up to one year to perform which will provide sufficient time for the Department to identify the new host platform and to program funds for the additional necessary modifications.

Classified Programs.—Additional guidance by the conferees is contained in a classified annex to this Statement of the Managers.

Fuel Inventory.—The Department of Defense has a fuel inventory of approximately 95 million barrels. Because of the likely reductions in force levels and operating tempo in fiscal year 1991, this inventory should be reduced by approximately six million barrels. Therefore, the Defense Stock Fund can transfer the resulting savings of at least $200 million to the Operation and Maintenance, Air Force appropriation. Accordingly, the conferees have agreed to a rescission of $200 million in O&M, Air Force.

Civil Air Patrol.—The conferees agree with Senate report language which directs the Air Force to pay up to $225,000 out of Air Force O&M funds for FBI investigations for Civil Air Patrol personnel.

As a related issue, the conferees agree that the $1,000,000 provided in fiscal year 1990 for the Civil Air Patrol's drug interdiction mission may also be used for training, administrative cost, and travel expenses if such activities are in support of their drug interdiction mission.

CINC Initiatives Fund.—In FY 1990, the Congress appropriated $50,000,000 to establish a Commanders-in-Chief (CINCs) Initiatives Fund to address the requirements of the various regional and functional CINCs. The fund, however, has not been used as planned and the Department's FY 1991 budget proposes termination of this effort.

In February, the Department of Defense transmitted a list of 31 CINC projects valued at $22,100,000. The Secretary of Defense subsequently decided to review these projects and has since only approved approximately $2,000,000, four percent of the Fund, for obligation. The conferees' review of several candidate projects also indicates a lack of firm requirements. For example, Forces Command proposed to use $1,645,000 to procure an automated local area computer network. Other initiatives would more appropriately be financed through foreign assistance.

In view of the Department's poor execution of the Fund and its resistance to maintaining a flexible fund for the CINCs, the conferees believe that remaining resources would be better used for the Supplemental Appropriations bill. Accordingly, the conferees recommended a rescission of $45,000,000 from "Operation and Maintenance, Defense Agencies."

Library of Congress Contract.—The conferees agree that, of the $2,000,000 originally appropriated to the Defense Intelligence Agency solely to continue a research contract with the Library of Congress, $912,000 shall be transferred to the Library for costs associated with terminating the contract, including a reduction-in-force. The remaining $1,088,000 no longer required for this purpose is available to the Defense Intelligence Agency for application to other programs previously approved in the appropriation and authorization processes.

PROCUREMENT

NBC Protective Mask.—The conferees agree to approve $9 million from the NBC Protective Mask program as a source of funds for the reprogramming for military personnel and the CHAMPUS funding shortfall. The conferees strongly support the NBC Protective Mask program, and agree to use the program as a source of funds only because of slippage in the program related to a delay in the availability of the technical data package for this important program. The DOD has advised the conferees that these funds are not executable in fiscal year 1990 and will be restored in the outyears.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

SEC. 202. Section 9080 of Public Law 101-165 is amended by inserting the following proviso before the period ": Provided, That except for M1 Garand and M1 carbine rifles, this provision does not restrict the use of funds for the destruction and disposal of other firearms".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to delete House language disallowing several deferrals and amend Senate language concerning excess and surplus nonautomatic firearms under .50 caliber.

It is the understanding of the conferees that the Department never intended to dispose of any M14 rifles, serviceable M1 Garand rifles, or 87 percent of the .45 caliber pistols since they may be required for other purposes. The conferees concur with this decision.

Due to the uncertainty of whether any of the unserviceable M1 Garand and M1 carbine rifles can be used to support the Director of Civilian Marksmanship Program and to loan or sell to various military associated organizations for use as ceremonial rifles, the conferees direct that the Department also not dispose of them. The Department is requested to report to the Committees on appropriations on the status of these rifles so that their disposal can be addressed in the fiscal year 1991 Defense Appropriations Bill.

For the small arms that are approved for disposal, the conferees direct that the Department of Defense shall be the responsible party for the destruction program and expect the Department of Defense to begin this destruction program expeditiously, with a goal of destroying them by the end of the fiscal year. It is also the intent of the conferees that all excess weapons shall be destroyed to the point that no remaining scrap can be used, in any fashion, in the production and/or repair of a firearm.

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which increases from $10,000,000 to $18,000,000 the amount of funds which may be obligated for the retrograde of chemical weapons from Europe before certain certifications are made.

Amendment No. 50: Changes section number as proposed by the Senate.

Amendment No. 51: Reported in technical disagreement. The managers on trhe part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

(a) The appropriation "Research, Development, Test and Evaluation, Air Force" contained in the Department of Defense Appropriations Act, 1990 (Public Law 101-165) is amended in the second proviso by striking out "1989" and inserting in lieu thereof "1990" and by striking the phrase "from the B-1B program that remain available for obligation".

(b) Section 8084 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463) is amended by striking out "$109,895,000" and inserting in lieu thereof "$79,895,000".

(c) Section 8115 of the Department of Defense Appropriations Act, 1988 (Public Law 100-202) is amended by striking out "$90,895,000" and inserting in lieu thereof "$67,895,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

B-1B AS A CRUISE MISSILE CARRIER

The conferees agree to retain the requirement enacted by the Congress in the Department of Defense Appropriations Act, 1990 that the Air Force continue testing of advanced cruise missile capability for the B-1B bomber. The conferees believe such testing should be done in the near future while both the B-1B and advanced cruise missile test programs are still ongoing. Recognizing the Defense Department's desire to have a signed START treaty prior to conducting such testing, the conferees agree to require that fiscal year 1990 RDT&E funds be used instead of fiscal year 1989 funds, which for the latter will expire in just a few months. This approach extends the time available to the Defense Department to conduct an orderly program while also minimizing any complications in the finalization of the START treaty negotiations. Since the fiscal year 1989 funds will no longer be used for the purpose intended by Congress, they have been rescinded. The conferees expect the Air Force to obligate and expend the funds for the earmarked expeditiously after the signing of a START treaty.

HIGH DEFINITION DISPLAY TECHNOLOGY

The conferees are disappointed that the Administration has not responded to the Appropriations Conference report requirement for submission of a government wide plan to develop high definition display technology. The conferees agree with the Senate report which reiterates the need for such a policy and program. The conferees further agree that there are no longer any restrictions on DARPA from obligating the additional $20,000,000 which Congress appropriated in fiscal year 1990 for research of this technology.

BALANCED TECHNOLOGY INITIATIVE

The conferees agree that of the funds appropriated in fiscal year 1990 for the Balanced Technology Initiative, $2,300,000 is available only to complete user evaluation testing of the Ground Launched Hellfire weapon system.

CAPABILITY IMPROVEMENT PROGRAM

The conferees agree to rescind $25,000,000 in unobligated fiscal year 1989 funds appropriated for the operational test and evaluation capability improvement program. The conferees agree that the remaining funds shall be allocated as follows: Base Resources ($8,347,000); Test Asset Distribution ($2,500,000); SA-12 Expedient ($5,400,000); and Aerial Threats ($3,253,000).

ROCKET ASSISTED KINETIC ENERGY (RAKE) AMMUNITION

The Army is considering the termination of development of enhanced 105mm tank rocket assisted kinetic energy (RAKE) ammunition for which funds were appropriated in 1990. The Army has over 3,200 105mm M-1 tanks and the fiscal year 1991 budget terminates plans to replace them with 120mm M-1A2 tanks. Further, the Army has testified that it intends to procure a new 105mm armored gun system. In light of the Army's decision to retain a large 105mm fleet, abandoning the development of enhanced 105mm tank ammunition does not make sense. Further, continuing with the 105mm RAKE round allows this promising technology to be adapted to the 120mm M-1A1 fleet.

Developing larger caliber tank ammunition at the expense of 105mm rounds is inconsistent with the Army's stated intention of becoming a lighter and more mobile force. Accordingly, the Army is directed to continue development of the 105mm RAKE round at the amount appropriated.

RDT&E REPROGRAMMING SOURCES

Any RDT&E source of funds proposed by the Department of Defense in Military Personnel reprogramming requests submitted to Congress through April 1990 that have not been (1) explicitly approved to finance the Military Personnel or CHAMPUS reprogramming requests as approved by Congress or (2) otherwise rescinded by this Act are hereby disapproved.

Amendment No. 52: Deletes Senate language which included a general provision to increase funding available for the military personnel accounts by $780,000,000 in a deficit neutral across the board reduction of $2,100,000,000 from unobligated balances of all defense accounts, except military personnel, by an equal percentage. The conferees agree to handle this shortfall through the normal reprogramming process.

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 205. (a) Not less than 30 days before a cooperative project agreement is signed or amended on behalf of the United States in conjunction with the NATO Research and Development program, the President shall transmit to the Committees on Appropriations of the Senate and House of Representatives a numbered certification setting forth the text and providing an explanatory statement on the purposes of the proposed agreement or amendment.

(b) Any cooperative project agreement or amendment referred to in subsection (a) shall contain a provision stipulating that United States participation under the agreement or amendment is subject to the availability of appropriated funds.

SEC. 206. Of the $6,000,000 provided in this Act in "Research, development, test and evaluation, Navy" for the Navy Medical Research and Development Command to support the unrelated marrow donor program, not less than $4,500,000 shall be provided as a grant to the National Marrow Donor Program Foundation.

SEC. 207. The last proviso under the head "Research, Development, Test and Evaluation, Navy" contained in the Department of Defense Appropriations Act, 1990 (Public Law 101-165 (103 Stat. 1125)) is amended by deleting the phrase "to the Center" and inserting in lieu thereof "to the Mississippi Resource Development Corporation".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

BONE MARROW RESEARCH AND DONATION PROGRAM

The Senate has concurred with a House amendment, similar to the House introduced bill (H.R. 4828), to provide $6,000,000 for the Navy Medical Research and Development Command to enhance efforts by the Department of Defense and the National Heart, Lung, and Blood Institute to support the National Marrow Donor Program. The conferees suggest that any Defense Department activities financed with these funds will be coordinated to the extent practicable with the National Heart, Lung and Blood Institute. Of the amount provided, $1,500,000 of these funds is to be used by the Navy to support and improve the tissue typing of active duty military and Defense Department civilian personnel, and their dependents, who volunteer to be included in the National Marrow Donor Program. It is also the intention of the conferees that the Navy make $4,500,000 of this funding available without delay to the National Marrow Donor Program Foundation, Inc. (NMDPF), to allow the NMDPF to tissue type as many volunteers as possible for inclusion in the national registry of marrow donors.

The conferees believe strongly that the funding of this effort should be contingent upon the National Marrow Donor Program's cooperation with other private bone marrow registries. This cooperation should include offering to exchange appropriate preliminary search information with the American Bone Marrow Donor Registry and other private registries, at no cost to the patient or other registry, thereby offering patients access to as many potential donors as possible.

The conferees recognize that the NMDP has the potential to save lives every day by matching terminally ill patients in need of bone marrow transplants with unrelated donors. In the 2½ years since the first match through the registry, more than 340 lives have been saved.

Bone marrow transplantation is the preferred treatment for more than 25 fatal blood disorders, and it is estimated that more than 5,000 to 10,000 Americans are in need of a transplant each year. A primary limitation of this treatment is the ability to find matched donors for patients in need of a transplant. There are more than 115,000 volunteers who already have had their blood typed and are listed in the national registry. The goal is a registry listing 250,000 volunteers nationwide and 1 million volunteers worldwide.

There is also a pressing need to ensure broad ethnic representation in the registry. Research has shown that genetics play a major role in a successful transplant. This research also shows that successful matches most often occur when donors and recipients have the same racial background. The $1,500,000 has been provided to the Navy to initiate a program to type volunteers of the armed forces because the military services provide a wide cross-section of races and ethnic backgrounds. The remaining funds

are included to permit the Navy, in cooperation with the National Heart, Lung and Blood Institute, to provide a grant to the NMDPF to type volunteers of minority groups and others who are on waiting lists to join the registry, but who cannot afford the lab fees for HLA typing.

This is a high priority, life-saving health program and the conferees expect that these funds will not be subject to any undistributed reduction or administrative budgetary limitations within the Department.

The conferees direct the Navy and the National Heart, Lung and Blood Institute, in consultation with the Board of Directors of the National Marrow Donor Program, to submit, no later than July 1, 1990, a detailed report outlining the specific activities to be supported by the total funding provided. This report should include, at a minimum, information about (1) the number of volunteers to be tested with these funds; (2) the projected ethnic and racial distribution of these volunteers; (3) the status of ongoing efforts to enhance cooperation between the National Marrow Donor Program and private donor registries; (4) a plan to broaden ethnic and racial representation in the National Marrow Donor Program; and (5) how the National Marrow Donor Program (NMOP) will allocate funds to entities such as donor centers, family bone marrow donation drives, and community "grass-roots" organizations in need of funding for the typing of potential donors.

ACOUSTICS CENTER

The conferees have included a provision, as included in the House introduced bill (H.R. 4828), which amends the Navy Research and Development paragraph in the Defense Appropriations Act, 1990, to conform the last proviso of that paragraph to previously enacted Defense Appropriations laws. The provision relate to the research effort at the National Center for Physical Acoustics.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 208. (a) Of funds available during fiscal year 1990 under the heading "Research, Development, Test and Evaluation, Defense Agencies", for the NATO Research and Development program—

(1) not less than $12,776,000 shall be transferred immediately upon enactment of this Act to the Defense Advanced Research Projects Agency to finance the advanced neural networks information processing technologies project; and

(2) not less than $12,224,000 shall be transferred immediately upon enactment of this Act to the Joint Department of Defense—Department of Energy Munitions Technology Development program.

(b) None of the funds referred to in subsection (a) may be transferred from the AV-8(B) radar development, F/A-18 radar upgrade, medium surface-to-air missile, and multifunctional information distribution system projects.

SEC. 209. None of the funds available to the Department of Defense may be used to purchase circuit breakers for U.S. Naval vessels unless the circuit breakers are manufactured in the United States from components which are substantially manufactured in the United States. For the purpose of this section, the manufacture of circuit breaker cradles in the United States by a foreign supplier shall not be deemed to constitute substantial U.S.-manufacture of circuit breakers. The Secretary of Defense may waive this provision if he determines that it is not in the national security interests of the United States or will have an adverse effect on a U.S. company.

SEC. 210. Notwithstanding any other provision of law, the Secretary of Defense shall participate in an infrastructure improvement demonstration program conducted by the Regional Equipment Center, Newport Township, Pennsylvania: Provided, That within 90 days following enactment of this Act, the Secretary shall provide directly such property within the control of the Department of Defense or any component thereof as mutually agreed to by the Regional Equipment Center and the Secretary and as necessary to carry out the provisions of this section.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Conferees agree to include language, as included in the House introduced bill (H.R. 4828), which provides the Secretary of Defense with authority to enter into an infrastructure improvement demonstration program conducted by the Regional Equipment Center, Newport Township, Pennsylvania. This authority should allow the Department of Defense through the Defense Logistics Agency to enter into an agreement with the Regional Equipment Center, Newport Township, and to provide by loan or transfer to the Center any mutually agreed upon heavy equipment, machinery, and tools necessary for the Department to conduct and evaluate this pilot demonstration program.

In addition, the conferees are concerned that as the facilities of the Defense Department are closed or drawn down, DOD will be left with unneeded vast quantities of this type equipment which could be used by states, local municipalities, and non-profit organizations. Therefore, the conferees request the Department to evaluate this situation and request legislative relief as necessary.

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 211. Funds available to the Department of Defense during the current fiscal year may be transferred to applicable appropriations or otherwise made available for obligation by the Secretary of Defense to fund the additional cost of pay and allowances, operational expenses and other costs associated with military operations in Panama known as Operation Just Cause: Provided, That funds transferred shall be available for the same purpose and the same time period as the appropriations to which transferred: Provided further, That the Secretary shall notify the Congress promptly of all transfers made pursuant to this authority and that such transfer authority shall be in addition to that provided elsewhere in this Act.

SEC. 212. The Department of the Army shall explore the possibility of laying away and storing the equipment and hardware located at the Mississippi Army Ammunition Plant and make the buildings available for such other private use as may be possible.

SEC. 213. Of the funds available to the Department of Defense, $5,000,000 shall be made available only for the establishment of a National Defense Center for Environmental Excellence.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes section 211 as proposed by the Senate and sections 212 and 213 which were included in the House introduced bill (H.R. 4828).

Mississippi Army Ammunition Plant.—The conferees agree that there may be ways for the local area to use some of the facilities at the Mississippi Army Ammuniton Plant for non-defense purposes. The Defense Department is directed to investigate and report on this matter in six months.

National Defense Center for Environmental Excellence.—By the end of fiscal year 1989, there were 14,401 sites on 1,579 active installations and 7,200 sites on properties formerly owned or used by the Department identified with the potential for hazardous waste contamination. The number of sites requiring cleanup will continue to grow as the Department closes or realigns bases and as the Department proceeds with the chemical demilitarization program.

The conferees believe that it is time for the Department to establish a National Defense Center for Environmental Excellence (NDCEE). This Center should undertake the planning process to systematically structure a five-year program to address DOD's environmental technology requirements. The expertise of the Center for Hazardous Materials Research (CHMR), the National Environmental Technology Applications Corporation (NETAC), and other universities and organizations as required should be utilized by the Center.

Therefore, the conferees direct the Department to make available $5,000,000 to the University of Pittsburgh Trust—an existing non-profit corporation—to establish a separate not-for-profit subsidiary to develop this Center to be located in Johnstown, Pennsylvania. A representative list of initiatives to be considered by the Center follows; other initiatives as agreed to by the Department and the Center should also be addressed.

(1) Definition and staffing of a management, technical, and financial organization for the operation and administration of the NDCEE program.

(2) Systematic assessment with DOD-designated organizations to determine and prioritize the nature, seriousness and potential solutions in the following environmental technology needs areas:

Hazardous waste remediation
Management of RCRA-type wastes
Waste minimization
Municipal-type-solid waste and incineration issues
Air pollution control
Medical waste disposal
Mixed waste disposal
Contaminated site remediation
Chemical weapons destruction
Recycling
Water pollution control and water usage
Underground storage tanks
Nuclear waste disposal

(3) Identification and involvement of leading qualified academic, public and private sector environmental technology resources to develop a broadly based NDCEE consortium, capable of responding to the total breadth of DOD's environmental concerns.

Products from the first year's operation of the NDCEE program will include:

(1) A fully functioning not-for-profit NDCEE Program Office, with approved managerial, technical, administrative and financial systems in place;

(2) A detailed technical, management and budgetary plan for the full five year NDCEE program; and

(3) The solicitation of candidate organizations for the individual technology based NDCEE's required by DOD for the fully operating program.

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 214. Of the funds made available for Research, Development, Test and Evaluation, Defense Agencies, 1990/1991, $4,000,000 shall be available only to conduct an operational test and evaluation (OT&E) of Individually Carried Record (ICR) technologies to be completed not later than August 31, 1991.

SEC. 215. Of the funds appropriated in fiscal year 1990 for the Defense Advanced Research Projects Agency's nuclear monitoring program, $6,500,000 is available only for the U.S.-Eurasian Seismic Studies Program administered by the Incorporated Research Institutions for Seismology.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Individually Carried Records (ICR).—The conferees direct the Department of Defense to use $4,000,000 to conduct an operational test and evaluation (OT&E) of Individually Carried Record (ICR) technologies. Because of its past experience with this technology, the conferees expect that the U.S. Army Soldier's Support Center be consulted on the ICR Operational testing. However, the conferees agree to allow the Department of Defense to continue with the issuance of the Request for Proposal (RFP) for the Real Time Automated Personnel Identification System (RAPIDS). The RAPIDS is designed to provide machine readable Uniformed Services identification cards to 12 million active duty members, reservists, retirees and dependents. Following the completion of the ICR OT&E, the Department shall provide the result to the Committees on Appropriations of the House and Senate and provide an acquisition plan to replace the RAPIDS technology with the selected ICR technology for active duty military personnel, if appropriate. Furthermore, the Department is directed to incorporate into the RAPIDS RFP an optional upgrade using the ICR technology.

DARPA.—The conferees are concerned about an apparent misunderstanding of Congressional intent in adding funds to the fiscal year 1990 budget for DARPA's Nuclear Monitoring Program. While some of the additional funds were intended for general program support, the House authorization report (H. Rpt. 101-121, pg. 134) noted that not less than $8,000,000 be used for continuing and expanding the "existing seismological studies and data exchange program with the Soviets. . . ." The Senate authorization report (S. Rpt. 101-81, pp. 128-29) also clearly specified "$6,500,000 for the U.S.-Eurasian Seismic Studies Program."

The conferees understand that DARPA currently does not intend to allocate even the lesser amount to this program, and therefore direct that not less than $6,500,000 appropriated in fiscal year 1990 for Nuclear Monitoring be obligated for the U.S.-Eurasian Seismic Studies Program administered by the Incorporated Research Institutions for Seismology. DARPA may apply the value of equipment already purchased for this program against the $6,500,000 discussed above.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 216. Notwithstanding any other provision of law, the Secretary of the Air Force is authorized and directed to negotiate, compromise, and reach a determination with Shipco General, Inc. regarding contract dispute No. F29650-82-C-0201 prior to the end of fiscal year 1990. The Secretary is authorized to pay the agreed upon settlement amount from available funds.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to a general provision to resolve the Shipco claims issue. The Air Force is authorized and directed to negotiate a mutually satisfactory settlement with Shipco General, Inc. prior to the end of fiscal year 1990. This issue resulted from a dispute regarding the renovation of housing at Kirtland Air Force Base, New Mexico.

CHAPTER III

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Of the funds made available in Public Law 101-167, for "International Organizations and Programs", an additional $5,000,000 may be made available for payment to the United Nations Environment Program, to carry out the provisions of section 2 of the United Nations Environment Program Participation Act of 1973.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the Senate amendment which provides up to $5,000,000 from fiscal year 1990 funds provided for International Organizations and Programs to be used for an additional payment to the United Nations Environment Program's Environment Fund. This provision was also included in the House introduced bill (H.R. 4828). The conferees have included technical changes to the Senate amendment correcting the title of the Environment Program. The Department of State is to give UNEP's Environment Fund the highest priority when reallocating fiscal year 1990 funds in the International Organizations and Programs account which are withheld pursuant to Section 526 of P.L. 101-167.

The conferees are concerned about progress in controlling substances that deplete the ozone layer. The conclusion of the Montreal Protocol on Substances that Deplete the Ozone Layer was an important step in controlling the problem of chlorofluorocarbons damage to the upper ozone layer. Parties to the Protocol have agreed in principle to establish a special fund to assist Third World nations to comply with the Protocol. The need for a United States contribution to this special fund will be addressed in the Foreign Operations, Export Financing, and Related Programs Appropriations Act for fiscal year 1991.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires that an equitable share of the refugee assistance funds provided in fiscal year 1990 be made available to fund the existing 2,000 semi-funded refugee admissions of Pentecostals, Evangelicals and Baptists from within Soviet refugee admission numbers. The conferees agreed that semi-funded refugee admissions also include admissions that are currently unfunded. This provision was also included in the House introduced bill (H.R. 4828).

BURMESE STUDENTS

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which states that funds provided in the fiscal year 1990 Foreign Assistant Appropriations Act for Burmese students may be used to provide assistance to any Burmese person in Burma or Thailand who is displaced as a result of events relating to civil conflict. This provision was also included in the House introduced bill (H.R. 4828).

The conferees strongly support assistance to refugee groups in need through regular multilateral international refugee efforts. Consequently, while they agreed to the provision in the annual act in response to an emergency situation related to students in the border areas and while they have agreed to provide the additional flexibility proposed by the Senate amendment, they are not prepared to agree quickly to long term or substantially increased bilateral funding of any Burmese person displaced in either Burma or Thailand. The conferees believe that an internationally organized multilateral program to assist such persons, restricted to discrete geographic areas, is the most appropriate approach to dealing with this problem.

AGENCY FOR INTERNATIONAL DEVELOPMENT

HAITI

Amendment No. 61: Inserts a new heading, as proposed by the Senate.

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: , *development assistance funds contained in prior foreign assistance appropriations acts that were not made available for Haiti, or pursuant to section 515 of such public law*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment permits deobligation/reobligation authority contained in Section 515 of the fiscal year 1990 Foreign Assist-

ance Appropriations Act and other previously made available development assistance funds to be used to fund the $10,000,000 earmarked for Haiti. The conferees believe that due to the relinquishment of power by General Prosper Avril the potential for democratic elections in Haiti may be greater today than any time in recent history.

The $10,000,000 in development assistance is to be in addition to other development assistance previously allocated for Haiti. The conferees agreed that none of the funds provided for Haiti are to be transferred from sub-Saharan Africa.

CHILE

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $10,000,000 in health related development assistance for Chile. This funding was also included in the House introduced bill (H.R. 4828).

Universal health care once existed in Chile. However, in the last sixteen years public spending on health has declined by 55 percent. Today 20 percent of the population, mostly rural poor, have no access to health care. These funds have been provided to help the newly elected government in Chile to launch a primary health care program targeted for the poor. The infusion of these funds will also help the process of consolidating democracy in Chile.

The conferees acknowledge that Chile does not meet normal guidelines for development assistance funds based on per capita income levels. However, Chile does have a large indigent population and these funds are urgently needed to jump-start Chile's primary health care system.

DEVELOPMENT ASSISTANCE FOR ANTI-NARCOTICS EFFORTS OF BOLIVA AND PERU

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

DEVELOPMENT ASSISTANCE FOR ANTI-NARCOTICS EFFORTS OF BOLIVIA AND PERU

Of the funds appropriated for fiscal year 1990 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), up to $25,000,000 should be available for Bolivia, and up to $20,000,000 should be available for Peru, for the following purposes—

(1) providing alternative income, employment, and social services for individuals involved in illicit coca and marijuana production.

(2) supporting investment in infrastructure, farm credit and extension services, and other development projects in non-coca production areas, and

(3) otherwise assisting, in accordance with chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), such countries in continuing their anti-narcotics efforts.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language providing up to $25,000,000 in development assistance for Bolivia and up to $20,000,000 in development assistance for Peru to be used for anti-narcotics purposes. The conferees have included language specifying that the assistance to be provided under this provision is to be in the form of development assistance. This language was also included in the House introduced bill (H.R. 4828).

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(a) Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended in the undesignated paragraph under the heading "HOUSING AND OTHER CREDIT GUARANTY PROGRAMS"—

(1) by striking out "$100,000,000," and inserting in lieu thereof "$500,000,000"; and

(2) by inserting after "principal" in the last proviso under such heading the following: ", of which amount $400,000,000 in commitments shall be available during fiscal year 1990 or subsequent fiscal years only for the purpose of providing housing and infrastructure in Israel for Soviet refugees: Provided further, That with respect only to the $400,000,000 in commitments to be made for housing and infrastructure in Israel referred to in the preceding proviso—

"(1) the guarantees shall be made available for loans made during or after fiscal year 1990, notwithstanding the limitation contained in the third sentence of section 222(a) of the Foreign Assistance Act of 1961;

"(2) the guarantees shall be made available for loans in increments of at least $150,000,000 or the amount requested by the borrower, whichever is lesser; and that the Agency for International Development shall review the borrower's actual or planned expenditures to ascertain that such amounts have or will be expended in accordance with the preceding proviso;

"(3) section 223(j) of the Foreign Assistance Act of 1961 (22 U.S.C. 2183(j)) shall not apply to such commitments; and

"(4) fees charged by the Agency for International Development under section 223(a) of the Foreign Assistance Act of 1961 shall be—

"(A) an initial fee of $2,800,000; and

"(B) an annual fee in an amount not more than one-half of 1 percent of the maximum face value of guarantees which may be issued for any one country in a fiscal year pursuant to the penultimate sentence of section 223(j) of such Act.".

(b) Section 222(a) of the Foreign Assistance Act of 1961(22 U.S.C. 2182) is amended by striking out "$2,158,000,000" and inserting in lieu thereof "$2,558,000,000".

The managers on the part of the Senate will move to concur in the amendment of the house to the amendment of the Senate.

The conference agreement includes $400,000,000 in housing guarantees for Israel. The housing guarantees will address the needs of the large influx of refugees coming to Israel from the Soviet Union. This provision was also included in the House introduced bill (H.R. 4828).

The conferees emphasize their intent that, consistent with past practice and policy regarding all assistance agreements with Israel, no assistance provided under this Housing Investment Guaranty program may be utilized beyond the pre-June 1967 borders of Israel.

The conferees note that the unprecedented numbers of Soviet Jews immigrating to Israel will result in the need for rapid construction of housing and infrastructure to absorb them. The conferees believe that Israel should make extensive use of American housing technologies and contractors in this program, and are concerned that there are tariff impediments to the importation by Israel of American housing materials. The conferees urge the Administration to seek agreement with Israel for the removal of these impediments to participation by American housing firms.

ECONOMIC SUPPORT FUNDS

PANAMA

Amendment No. 66: Deletes language proposed by the Senate setting conditions for providing funds for Panama.

The conferees remain very concerned that despite efforts by the Government of Panama to combat drug trafficking, the Panamanian banking system is still vulnerable to money laundering. This issue has been strongly addressed by both the House and Senate fiscal year 1990 supplemental authorizing bills. Consequently, while the conferees support tough language on this issue, it was felt that the issue should be handled through the appropriate authorizing legislation.

The conferees believe it is imperative that the United States Government and the Government of Panama: (1) reach agreement for exchanging records on international currency transactions in connection with narcotics investigations and proceedings, and (2) make steady progress towards signing a Mutual Legal Assistance Treaty.

In order to underscore the importance of reforming the Panamanian banking system to protect it against a repetition of past abuses, the conferees strongly urge that no more than 80 percent of the funds for Panama be provided unless the above conditions are met.

NICARAGUA

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language that states that the $30,000,000 provided in assistance for the Nicaraguan resistance voluntary demobilization, repatriation and resettlement may be made available only to members of the Nicaraguan resistance who agree to and are abiding by the terms of the cease-fire agreement and the addendum to the Toncontin Agreement signed on April 19, 1990. This provision was also included in the House introduced bill (H.R. 4828).

The conferees also have agreed that $2,000,000 of the funds appropriated for Economic Support Fund assistance for Nicaragua may be used to support the Observer Group for Central America (ONUCA).

NICARAGUA NOTIFICATIONS

Amendment No. 68: Deletes language proposed by the Senate specifying notification to the House Foreign Affairs and Senate Foreign Relations Committees concerning Nicaragua. The conferees understand that notifications under section 634A of the Foreign Assistance Act of 1961 are required by law whether or not they are specifically required by this Act. Section 634A(c) states that the Senate Foreign Relations and House Foreign Affairs Committees will be notified "to the same degree and with the same conditions as the President notifies the Committees on Appropriations". Since notifications of the Appropriations Committees are required in this chapter, an added reference to section 634A is unnecessary.

NICARAGUA ENVIRONMENTAL ACTIVITIES

Amendment No. 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that up to $8,000,000 in Economic Support Funds provided for Nicaragua be used for environmental activities. This provision was also included in the House introduced bill (H.R. 4828).

FORESTRY PROTECTION

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits the use of funds provided for Nicaragua or Panama for any project that would result in any significant loss of tropical forests. This provision was also included in the House introduced bill (H.R. 4828).

EVALUATION AND AUDIT

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires evaluations and audits of the funds provided for Nicaragua and Panama. This provision was also included in the House introduced bill (H.R. 4828).

The conferees recognizes that CIAV, UNHCR or other United Nations or internationally affiliated organizations will be audited in accordance with standard procedures applicable to UN-affiliated organizations.

The conferees also intend that the special auditing and evaluation requirements established in this provision will be applicable only through fiscal year 1991.

PANAMA AND NICARAGUA PROJECT ASSISTANCE

The conferees agreed that the Administration should carefully review the specific programs and projects to be proposed for Panama and Nicaragua. Private sector development and budget support are needed for both countries, but assistance for child survival, health and education are also critical needs in both countries. The conferees expect to receive notifications on assistance to Panama and Nicaragua that show a concern for the social as well as the private sector development needs in these countries.

LITHUANIA EMERGENCY RELIEF

Amendment No. 72: Deletes language proposed by the Senate providing up to $5,000,000 in emergency assistance to Lithuania.

CARIBBEAN

Amendment No. 73: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

That of the funds made available under this heading not less than $3,000,000 shall be made available only for Haiti to support the democratic electoral process: Provided further, That of the funds made available under this heading not less than $8,750,000 shall be made available only for Jamaica

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides a total of $15,000,000 in assistance for countries in the Caribbean. Funds in the amount of $3,000,000 have been earmarked for Haiti, $8,750,000 is earmarked for Jamaica. The conferees have agreed that funds not earmarked for Haiti and Jamaica are to be used to fund assistance to other countries in the Caribbean. The countries in the Caribbean Regional Program are to be given the highest priority in the allocation of these nonearmarked funds. The House has provided $15,000,000 for the Caribbean with a ceiling of no more than 50 percent to any one country. The Senate provided the same amount of funding, but earmarked $3,000,000 for Haiti and $10,000,000 for Jamaica.

The conferees expect the $3,000,000 in Economic Support Funds for Haiti to be used for electoral support, and to be in addition to other Agency for International Development funds available for technical assistance and other electoral needs. The conferees understand that this amount is insufficient to meet urgent electoral needs and urge the Administration to make additional Economic Support Funds available for this purpose from existing resources.

The conferees intend that the $3,000,000 provided in this section for Haiti be expended only after the following conditions have been met: (1) the Government of Haiti has named the members of a genuinely independent electoral council to conduct free, fair and open elections; (2) the Government of Haiti has established and promulgated an electoral law that is acceptable to such electoral council; (3) official investigations have been reopened in connection with the disruption of the November 29, 1987 election; and (4) meaningful steps are being taken by Haitian civil and military authorities to provide electoral security.

EASTERN CARRIBBEAN

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following:

ASSISTANCE FOR THE EASTERN CARIBBEAN

For an additional amount to carry out the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961, $5,000,000, for assistance for countries of the Eastern Caribbean, to remain available through September 30, 1991.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to provide an additional $5,000,000 in development assistance funds for the Eastern Caribbean. This funding was also included in the House introduced bill (H.R. 4828). These funds are to be spent for the rehabilitation and recovery of the six major beneficiary countries in the Caribbean regional program.

SUB-SAHARAN AFRICA

Amendment No. 75: Appropriates $20,000,000 for the "Economic Support Fund" for assistance for sub-Saharan Africa instead of the $10,000,000 proposed by the Senate and the $25,000,000 proposed by the House. This provision was also included in the House introduced bill (H.R. 4828).

Amendment No. 76: Restores language stricken by the Senate earmarking $10,000,000 for Namibia. The Senate had stricken the House earmark for Namibia included in Amendment Number 76, and had included $10,000,000 for Namibia under amendment number 75. This provision was also included in the House introduced bill (H.R. 4828).

NAMIBIA

Amendment No. 77: Deletes language proposed by the Senate requiring a Presidential certification prior to obligating or expending funds for Namibia. Based on public and private assurances from the Government of Namibia that it is not the policy of that government to intervene militarily in Angola or to support military intervention from its territory into Angola, the conferees agreed that the language of the Senate amendment is unnecessary. The conferees assume that the Administration will watch the situation in Namibia and Angola closely and inform Congress if there is any breach of this policy by the Government of Namibia.

MOZAMBIQUE, ZAMBIA, AND SOUTH AFRICA DEMOCRACY

Amendment No. 78: Earmarks $10,000,000, as proposed by the House to provide assistance through the National Endowment for Democracy and other groups to support programs and activities of organizations to encourage negotiations leading to a peaceful transition to a genuine democracy based on universal suffrage within a united South Africa. As proposed in the House bill, the provision contains restrictions concerning the suspension of violence and a prohibition on using funds to support violence.

Funds provided for South Africa shall be used to support programs and activities of organizations to encourage negotiations leading to a peaceful transition to a genuine democracy based on universal suffrage within a united South Africa. These funds are intended exclusively to support the activities of the victims of apartheid. Funds shall be made available to help previously banned organizations develop their infrastructure, including office and communications equipment, vehicles, office space, clerical support and equipment needed for the publication and distribution of pamphlets. In administering the support for democratic political parties and organizations in South Africa, AID shall seek to subcontract with broad-based, non-partisan organizations such as the National Endowment for Democracy and the South African Council of Churches.

The conferees agreed to delete earmarks totalling $5,000,000 under the Economic Support Fund proposed by the House for Mozambique and Zambia. Instead, the Administration is encouraged to use $5,000,000 of the development assistance funds provided in the Act for sub-Saharan Africa to fund programs for Zambia and Mozambique.

This provision was also included in the House introduced bill (H.R. 4828).

HUMANITARIAN ASSISTANCE FOR ARMENIA AND ROMANIA

Amendment No. 79: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

HUMANITARIAN ASSISTANCE FOR ARMENIA AND ROMANIA

(a) For an additional amount for "International Disaster Assistance", $5,000,000, to remain available until September 30, 1991, which sum shall be made available, notwithstanding any other provision of law, for humanitarian assistance, transportation of materials provided for such assistance, medical treatment, and education and vocational training to the victims of the Armenian earthquake of December 7, 1988, which assistance shall be channeled through United States private and voluntary organizations and other United States nongovernmental

organizations: Provided, That such funds are in addition to funds previously made available for such purposes: Provided further, That of the funds made available by this subsection for assistance for Armenia, up to 1 percent may be used by the Agency for International Development for costs of administering such program.

(b) Not less than $4,000,000 of the total amount of funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), which funds were—

(1) appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167);

(2) made available through the exercise of the authority contained in section 515 of that Act; or

(3) appropriated for development assistance in prior foreign assistance appropriations acts,

shall be made available, notwithstanding any other provision of law, through international relief agencies and nongovernmental organizations for health assistance for children in Romania.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $5,000,000 in disaster assistance for Armenia to assist with recovery related to the devastating earthquake. The conferees agree that assistance may be used for longer-term recovery and reconstruction activities which aid the victims of the Armenia earthquake of December 7, 1988, and may include the provision of medical assistance, education and vocational training, as well as other assistance to help the recovery of this stricken area.

The conferees have agreed to provide not less than $4,000,000 for the health care needs of children in Romania from within fiscal year 1990 or prior year development assistance funds. These funds are urgently needed to address the acute shortage of basic medical supplies and substandard conditions under which many children, particularly orphans, are forced to live. To the extent feasible these funds should also be used to move children out of institutional care either through family reunification or adoption. The conferees also agree that none of the funds for Romania are to be derived from sub-Saharan Africa.

The conferees agree that $2,000,000 of the funds provided for children in Romania should be designated to support the UNICEF program in Romania. The remaining $2,000,000 should be designated for the International Committee for the Red Cross or other relief organizations operating in Romania.

The conferees agreed that a high-priority use for funds provided for Romania should also be to assist the development of professional child welfare and adoption entities. Both of these activities are currently in short supply in Romania. There is an urgent need for assistance to the appropriate Romanian authorities in order to develop professional mechanisms for both in-country and inter-country adoption. Therefore, the conferees strongly recommend that a priority for the utilization of these funds is to train child welfare and adoption specialists so that the emergency needs of orphaned Romanian children can be met and appropriate resources developed.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

Amendment No. 80: Appropriates $10,000,000 for sub-Saharan Africa development assistance instead of $20,000,000 as proposed by the Senate and $5,000,000 as proposed by the House. This provision was also included in the House introduced bill (H.R. 4828).

The conferees intend that this assistance will be used in the countries whose basic needs are the most critical. The conferees believe that priority should be given to Mozambique, Zambia and Uganda. Mozambique urgently needs humanitarian relief to overcome the devastation caused by years of civil war and drought. Zambia is in dire need of both health and education development assistance programs. In Uganda an estimated one million people are infected with the AIDS virus. Emergency assistance is urgently needed to combat this terrible epidemic and provide for the welfare of thousands of children orphaned by AIDS.

WAIVERS AND AUTHORITIES

Amendment No. 81: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

WAIVERS AND AUTHORITIES

(a) Funds appropriated by this chapter for the "Economic Support Fund" for Panama shall be available as follows: (1) up to $1,200,000 may be provided to carry out the purposes of section 534(b)(3) of the Foreign Assistance Act of 1961 for countries in Latin America and the Caribbean other than Panama; (2) assistance may be provided for technical assistance, training, and commodities with the objective of creating a professional civilian police force notwithstanding section 660 of the Foreign Assistance Act of 1961, except that such assistance shall not include more than $5,000,000 for the procurement of equipment for law enforcement purposes in Panama, and shall not include lethal equipment; and (3) the limitations contained in the second sentence of section 534(e) of the Foreign Assistance Act of 1961 and the second sentence of section 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, shall not be applicable to assistance provided under this subsection.

(b) Funds appropriated under this chapter for Panama and Nicaragua, as well as during fiscal year 1990 funds otherwise available for economic assistance under other provisions of law and assistance under chapter 8 of part II of the Foreign Assistance Act of 1961, may be made available for Panama and Nicaragua notwithstanding section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, section 620(g) of the Foreign Assistance Act of 1961, or any similar provision of law relating to foreign assistance repayments.

(c) Funds appropriated under this Act may be made available notwithstanding section 10 of P.L. 91-672 and section 15 of the State Department Basic Authorities Act of 1956.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides the necessary waivers in order to obligate and expend funds provided in this Supplemental for foreign assistance programs.

The conference agreement also deletes language proposed by the Senate specifying notification to the House Foreign Affairs and Senate Foreign Relations Committees concerning notifications of obligations. The conferees understand that notifications under section 634A of the Foreign Assistance Act of 1961 are required by law whether or not they are specifically required by this Act. Section 634A(c) states that the Senate Foreign Relations and House Foreign Affairs Committees will be notified "to the same degree and with the same conditions as the President notifies the Committees on Appropriations". Since notifications of the Appropriations Committees are required in this Supplemental, an added reference to section 634A is unnecessary.

EXPORT-IMPORT BANK

Amendment No. 82: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires that the funds provided for an Interest Equalization Program in the fiscal year 1990 Act be available subject only to the availability of qualified lenders under the program. This provision was also included in the House introduced bill (H.R. 4828).

The conferees expect the Bank to exercise prudent judgement in selecting suitable transactions for support under this program in accordance with its regular program criteria and policies.

CHAPTER IV

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

BUREAU OF LAND MANAGEMENT

Amendment No. 83: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided, That these funds also shall be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes and shall be obligated fully prior to use of any other funds for wildlife suppression and emergency rehabilitation and shall remain available until December 31, 1990*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. This language allows the money appropriated to be available to repay advances to other appropriation accounts and to remain available until December 31, 1990.

This provision was included in the House introduced bill (H.R. 4828) and modifies a Senate amendment to the original Dire Emergency Supplemental.

U.S. FISH AND WILDLIFE SERVICE

Amendment No. 84: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted in said amendment, insert the following:

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource Management", $827,000: Provided, That the Secretary, acting through the United States Fish and Wildlife Service, is authorized to enter into renewable contracts for the payment of reasonable and customary costs for delivery of Newlands Project water rights acquired by the Service to benefit the Federal and State wildlife areas in the Lahontan

Valley and the Fernley Sink in Nevada: Provided further, That the costs for delivery shall be those costs normally associated with the delivery of water to Newlands Project lands: Provided further, That the contracts shall be of a term not exceeding 40 years: Provided further, That any such contract shall provide that upon the failure of the service to pay such charges, the United States shall be liable for their payment and other costs provided for in applicable provisions of the contract subject to availability of appropriations: Provided further, That the Secretary, acting through the United States Fish and Wildlife Service, in accordance with applicable State law, may use water diversion, storage, and conveyance systems of Federal Reclamation Projects to benefit Federal and State wildlife areas in the Lahontan Valley and the Fernley Sink in Nevada.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides $827,000 for the Appropriate Technology for Rural Areas program instead of $1,000,000 as proposed by the Senate. The reduction eliminates that portion of the amount proposed by the Senate which would have provided funding beyond fiscal year 1990. The amount made available will repay funds borrowed to continue the activity to date as well as continue operations through September 30, 1990.

Several small technical changes were made to the Senate language that permits the U.S. Fish and Wildlife Service to enter into contracts with the Truckee Carson Irrigation District for payment of operation and maintenance fees for the delivery of Fish and Wildlife Service water to the Stillwater wetlands in Nevada.

Amendment No. 85: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

NATIONAL PARK SERVICE

HISTORIC PRESERVATION FUND

Funds appropriated under this head in Public Law 101-121 shall remain available for obligation until September 30, 1991.

CONSTRUCTION

Of the funds made available under this head in the Department of the Interior and Related Agencies Appropriations Act, 1990 (Public Law 101-121), not less than $5,852,000 shall be made available immediately for design and construction activities associated with the Franklin Delano Roosevelt Memorial.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, Investigations, and Research", $6,246,000, to remain available until expended.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

The paragraph under this head in Public Law 101-121 is amended by inserting in front of $54,000,000 the words "up to": Provided, That none of the funds available to the Bureau of Indian Affairs in this or any other Act shall be used to transfer, through agreement, memorandum of understanding, demonstration project or other method, the Safety of Dams program of the Bureau of Indian Affairs to the Bureau of Reclamation.

DEPARTMENTAL OFFICES

OIL SPILL EMERGENCY FUND

For an additional amount for the Department of the Interior for contingency planning, response and natural resource damage assessment related to the discharge of oil from the tanker Exxon Valdez into Prince William Sound, Alaska, and for other purposes authorized under this head in P.L. 101-45, $7,279,000: Provided, That all authorities associated with, and funds in, the Oil Spill Emergency Fund shall remain available until september 30, 1994: Provided further, That none of the funds made available by this or any other Act with respect to any fiscal year may be used by the Department of the Interior to make any reimbursements to any other Federal department for litigation costs associated with the Prince William Sound oil spill.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree that $5,852,000 is available for design and construction of the Franklin D. Roosevelt Memorial as provided in Public Law 101-121. This provision was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental.

The managers have also agreed to extend the availability of the Historic Preservation Fund to September 30, 1991 to correct a technical error in Public Law 101-121.

The managers recommend an additional appropriation of $6,246,000 for emergency expenditures associated with the ongoing eruptions of Mount Redoubt Volcano near Anchorage, Alaska. Since the recent series of eruptions of this volcano occurred in December after passage of P.L. 101-130, this disaster does not qualify for allocations from the emergency fund established in section 108(d) of that law. The recommendation would make available additional monies necessary to permit the Geological Survey to monitor the Mount Redoubt Volcano for public safety purposes.

The managers have added language under the Bureau of Indian Affairs, Operation of Indian Programs account, to allow the Bureau to use whatever portion of the $54,000,000 provided in the fiscal year 1990 Act which is not needed for the costs of converting tribal contracts, for reprogramming to cover shortfalls in various Bureau programs in this fiscal year. The Bureau currently estimates that approximately $39,000,000 will be needed for the contract conversion costs. At the same time, the Bureau is estimating that there could be shortfalls in such programs as general assistance, contract support funds, teacher pay costs and student transportation costs, possibly totaling as much as $25,000,000. The change in the 1990 appropriations language will allow the Bureau to identify its highest priority needs for such programming, once the amount not needed for contract conversion is known, and to submit such reprogrammings to the Committees for approval as quickly as possible. This provision was included in the House introduced bill (H.R. 4828).

Language has also been included to prohibit the transfer of the Safety of Dams program from the Bureau of Indian Affairs to the Bureau of Reclamation in fiscal year 1990. This proposed transfer has been included in the Administration's budget request for fiscal year 1991, and the managers believe no preliminary actions related to this proposed transfer should be taken prior to the Committees' actions on the 1991 bill. This provision was included in the House introduced bill (H.R. 4828).

The managers are aware that there is a shortage of funds to carry out administrative functions related to the Hoopa-Yurok Indian Settlement Act. The managers direct that up to $500,000 shall be reprogrammed from the Hoopa-Yurok settlement funds provided in fiscal year 1990 to cover these administrative costs of the Bureau, with the proviso that these funds are to be restored to the settlement fund at the earliest possible opportunity.

The managers agree that $300,000 of funds appropriated for operation of juvenile detention centers in fiscal year 1990 may be used for an independent assessment of the status of fishery resources in the State of Wisconsin, to be conducted jointly by the Federal Government, State and six Chippewa tribal governments. These funds should be made available only when the State of Wisconsin has identified and committed the funds it will provide for this purpose.

In fiscal year 1990, a total of $200,000 was provided for the St. Regis Mohawk tribe, for development of law and order and tribal court systems on this reservation. The managers agree that $100,000 of these funds may be used for the conduct of peace forums and charter development for the tribe.

The managers also direct the Bureau to report to the Committees, by June 8, 1990, regarding the expenditure of these funds and to identify the additional requirements necessary to develop the law and order and tribal court systems on the reservation.

The managers agree that $705,000 shall be reprogrammed from available funds from various irrigation projects to replace the Zia Pueblo diversion dam and siphon. Other available funds will be considered for later reprogramming for the on-farm irrigation facilities for the Dolores Project in Colorado, once the concerns regarding the possible impact on an endangered species have been addressed.

The managers wish to reiterate language contained in the Statement of the Managers accompanying the fiscal year 1990 conference report for the Department of the Interior and Related Agencies Appropriations Act. Funds were not earmarked above the budget request for the Hannahville, Michigan Indian School. The Bureau is to proceed with planning, using existing funds, for phase II of the project to include the gymnasium and cafeteria while phase I construction is underway, and should funds become available to begin construction of phase II during fiscal year 1990, approval to reprogram funds for this purpose should be requested.

The managers recommend a supplemental appropriation of $7,279,000 for the Oil Spill Emergency Fund. Current balances in the Fund are only $267,000, with only approximately $4 million in anticipated recoveries from the Coast Guard's 311K account. The Department has identified $11,355,000 in remaining FY 1990 response, damage assessment, project support, and legal requirements associated with the Exxon Valdez oil spill in Prince William Sound, Alaska, on March 24, 1989. The recommendation will permit necessary oil spill work to continue on schedule.

Because additional monies for these recovery purposes are not expected to be provided by Exxon in the near future, bill language has been included to extend the Oil Spill Emergency Fund balances and authorities through September 30, 1994.

The conference agreement also includes bill language which prohibits the Department of the Interior from using any appropriated funds to make reimbursements to other Federal agencies for litigation costs associated with the Exxon Valdez oil spill. Funds made available for the Fish and Wildlife Service, the National Park Service and other Interior Department agencies should not be used to subsidize costs that are the responsibility of the department charged with the government's prosecution of this case.

The managers agree to reprogram in the National Park Service construction account $4,000,000 from savings and slippages associated with line-item construction projects to cover a planning shortfall. Within these funds, $150,000 is to conduct a suitability/feasibility study for an Abraham Lincoln research and interpretive center at or near Lincoln Home National Historic Site in Springfield, Illinois. The study should address the following items:

(1) location and accessibility to Lincoln Home National Historic Site; (2) interpretive programs addressing Lincoln's life and presidency through museum exhibits, audiovisual programs, and other media; (3) modern curatorial storage for Lincoln artifacts and memorabilia; (4) location and availability of documentary and artifactual material for research and display including the joint management and supervision of materials with other government agencies and private entities; (5) architectural concepts to ensure compatibility with the center's setting; (6) management and operation alternatives which could include State and private agencies; (7) estimates and funding alternatives for construction, maintenance, and operation of the centers. The report should be delivered to Congress no later than April 1, 1991.

The managers agree to the Senate provision which allows the reprogramming of $500,000 previously appropriated for the purchase of BLM of Blackwell Island for the purchase of three other parcels of land in the Coeur d'Alene BLM District.

The managers are dismayed that the National Park Service has refused to implement the following directive approved by the Congress: "[f]unds sufficient to complete the Farmington River study at a level beyond the current authorization are provided" (House Report No. 101-120). Therefore, the managers direct the National Park Service to provide immediately $85,000 for the Farmington River study now underway, and further direct that those funds shall be provided from monies previously appropriated for the General Administration activity, National Park Service. To the greatest extent practicable, funds budgeted for travel and administrative overhead should be used to provide this amount. In addition to these funds, the managers expect that the amount provided in the fiscal year 1991 budget request will be used to complete the study. No later than ten days after enactment of this act, the Director of the National Park Service shall report to the House and Senate Committees on Appropriations to certify that this directive has been implemented.

FOREST SERVICE

Amendment No. 86: Appropriates $256,700,000 for "Forest Service Firefighting" as proposed by the Senate instead of $256,000,000 as proposed by the House. This amount was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental.

Amendment No. 87: Reported in technical disagreement. The managers on the part of the house will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

NATIONAL FOREST SYSTEM

For additional expenses associated with assessment or recovery on National Forest System lands from Hurricane Hugo and the Exxon Valdez oil spill of March 24, 1989, or for assessment and recovery on associated lands affected by the Exxon Valdez oil spill, $8,633,000, to remain available until September 30, 1991: Provided, That none of the funds made available by this or any other Act with respect to any fiscal year may be used by the Forest Service to make any reimbursements to any other Federal department for litigation costs associated with the Prince William Sound oil spill.

CONSTRUCTION

Notwithstanding any other provision of law, funds originally appropriated under this head in P.L. 101-121, the Department of the Interior and Related Agencies Appropriations Act, 1990, in the amount of $371,000 for the Forest Service for the construction of an addition to the Starkville, Mississippi research office shall be available for a grant to Mississippi State University as the Federal share in the construction of a new University facility: Provided, That comparable space shall be provided to the Forest Service without charge for a reasonable period.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have also included $8,633,000 to allow the Forest Service to undertake the study and recovery efforts associated with the effects of the Exxon Valdez oil spill in Prince William Sound last year. These funds are to be used for coastal habitat assessments, archeological surveys, and economic evaluations. The managers have also included bill language prohibiting the Forest Service from using any of its funds to reimburse the Department of Justice costs associated with recouping payment for damages from the Exxon Corporation.

The managers have also included bill language which would authorize the use of funds appropriated in the FY 1990 Interior appropriations bill for a grant to Mississippi State University (MSU) as the Federal contribution towards the costs associated with construction of a new forestry building at the university. This provision was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental. The funds were appropriated for the Forest Service to expand its existing facility, by adding a new wing to the present structure. The conferees have no objection to the Forest Service providing these funds to MSU in exchange for space to be provided to the Forest Service, rent-free, for a period of twenty years. In approving this arrangement, the conferees make no commitment as to future funding for other joint-space arrangements contemplated by the Forest Service and MSU.

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SETTLEMENT OF CLAIMS, FOREST SERVICE

The Forest Service is hereby authorized and directed to negotiate, compromise, and reach a determination on certain claims against the United States resulting from the Mink Fire (Bridger-Teton National Forest and Yellowstone National Park), Clover-Mist Fire (Yellowstone National Park and Shoshone National Forest), Storm Creek Fire (Yellowstone National Park and Gallatin-Custer National Forests), and Canyon Creek Fire (Lolo, Helena, Lewis and Clark National Forests) which were originally classified as prescribed fires but subsequently became wildfires. The Forest Service is directed to negotiate, compromise, and reach a determination on the original claims, or the claims filed by an insurer subrogated to the rights of a claimant, and to negotiate any other claims filed within ninety days of the date of enactment of this Act. Notwithstanding any other provision of the law, the Secretary of the Treasury is authorized and directed to pay the amount of each determination from the Claims, Judgments, and Relief Act Fund (Public Law 95-26): Provided, That the Secretary of the Treasury shall make no payments for claims which are determined by the Forest Service or the Department of Justice to be invalid under current law: Provided further, That nothing in this section shall prohibit any claimant from filing an appeal of any determination made by the Forest Service, Department of Agriculture, or Department of Justice pursuant to current law.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to language which will address the claims of those individuals who suffered damages as a result of the fires which occurred in the greater Yellowstone area in 1988. The language does not amend the Federal Tort Claims Act. The Forest Service is directed to negotiate, compromise and reach a determination on any claims already filed, or those that will be filed within ninety days after enactment of this Act, associated with these fires. Language is also included which continues current policy that allows a claimant to file an appeal after a decision has been reached.

CLEAN COAL TECHNOLOGY

Amendment No. 89. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert:

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

Funds previously appropriated under this head for clean coal technology solicitations to be issued no later than June 1, 1990, and no later than September 1, 1991: Provided, That the aforementioned solicitations shall not be conducted prior to the ability to obligate these funds: Provided further, That pursuant to section 202 (b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: Provided further, That for the clean coal solicitations identified herein, provisions included for the repayment of government contributions to individual projects shall be identical to those included in the Program Opportunity Notice (PON) for Clean Coal Technology III (CCT-III) Demonstration Projects (solicitation

number DE-PS01-89 FE 61825), issued by the Department of Energy on May 1, 1989.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment delays the fourth and fifth clean coal technology solicitations as proposed by the Senate and specifies that, when issued, these solicitations must use repayment provisions used successfully in the third solicitation. This provision was included in the House introduced bill (H.R. 4828) and modifies a Senate amendment to the original Dire Emergency Supplemental.

The managers agree that changes to the clean air bill, proposed by a House authorizing committee, that would modify the clean coal technology program must be resolved before a reasonable solicitation can be issued. The proposed delay will allow such resolution.

The managers have added language to ensure that provisions dealing with the repayment of government provided funds will remain the same as in the third round of procurements. These provisions were developed over a four year period based on the experience of previous procurements and negotiations, and input from industrial participants, Congress, and the managers of the program. They appear to be working well.

Based on this long-term experience, and the clear fact that the implementation of this type of technology will become even more important with the passage of clean air legislation, the managers reject proposals put forth by the Department of Energy to increase repayment rates substantially. Such proposals, while they might increase the recovery of government-provided funds over periods of up to twenty years, might also act as a deterrent to industrial participation in the program, which is already over 50 percent cost-shared by industry. The purpose of the program is to accelerate the introduction of clean uses of coal in a more efficient manner in compliance with stringent new air quality standards, not the provision of investment returns to the Government at the expense of nascent markets.

CHAPTER V

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Amendment No. 90: Appropriates $10,000,000 as proposed by the Senate. H.R. 4404 as passed the House included no funds for this purpose, but this same amount was included in H.R. 4828 as introduced in the House of Representatives.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

Amendment No. 91: Appropriates $99,600,000 from the Unemployment Trust Fund as proposed by the Senate instead of $96,000,000 as proposed by the House in H.R. 4404. H.R. 4828 as introduced in the House of Representatives contained $99,600,000 for this purpose.

The conferees direct the Department of Labor to use all of the supplemental funds to restore, to the extent possible, the 6.7 percent across-the-board reductions taken to States' base and contingency allocations for fiscal year 1990.

EMPLOYMENT STANDARDS ADMINISTRATION

Amendment No. 92: Inserts heading as proposed by the Senate.

SPECIAL BENEFITS

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the date "June 15" named in said amendment insert the following: *August 15*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement changes the so-called drawdown date for the Special Benefits account to August 15 instead of June 15 as proposed by the Senate; the date under current law is September 15. The agreement also provides that unobligated balances remaining on September 30, 1990 shall remain available for obligation until September 30, 1991.

BLACK LUNG DISABILITY TRUST FUND

Amendment No. 94: Appropriates $700,000 from the Black Lung Disability Trust Fund as proposed by the Senate. H.R. 4404 as passed the House included no funds for this purpose, but the same amount was included in H.R. 4828 as introduced in the House of Representatives.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

PROGRAM OPERATIONS

Amendment No. 95: Appropriates $2,300,000 for health care for the homeless as proposed by the Senate. While H.R. 4404 as passed the House did not include funds for this purpose, the amount provided in the conference agreement is the same as that included in H.R. 4828 as introduced in the House of Representatives.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first sum named in said amendment insert: *$30,500,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $30,500,000, including $7,000,000 for measles outbreak control and $23,500,000 for the purchase of a second vaccination for measles immunization. H.R. 4404 as passed the House included no funds for this purpose, but the same amount was included in H.R. 4828 as introduced in the House of Representatives.

In addition, the conferees are agreed that an additional $5,000,000 shall be available for measles outbreak control by reprogramming from other immunization activities and that an additional $2,000,000 shall be available for hepatitis B screening in the same manner.

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH

Amendment No. 97: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following:

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

The second proviso under the heading "Alcohol, Drug Abuse, and Mental Health" in title IV of Public Law 101-164 is repealed effective September 10, 1990 if the treatment waiting period reduction grants are not specifically authorized prior to that date.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are agreed that the funding reserved for treatment waiting period reduction grants shall be available only for this purpose until September 10, 1990, pending reauthorization. If the program has not been reauthorized by that time, the Committees expect a reprogramming request by the Department for other drug abuse treatment, prevention, and research activities.

VACCINE INJURY COMPENSATION

Amendment No. 98: Deletes without prejudice language proposed by the Senate to modify amendments to the Public Health Service Act regarding vaccine compensation which were contained in the 1989 Reconciliation Act. H.R. 4404 as passed the House included no similar provision.

The conferees have deleted without prejudice bill language which would have made a number of technical corrections in the Vaccine Injury Compensation Act. The conferees are concerned, however, that drafting errors made in amendments to the compensation system in P.L. 101-239 have made it possible for claimants who are injured by vaccines to receive an award from the Vaccine Injury Compensation System and still file a civil suit. this result is contrary to the intent of the Vaccine Injury Compensation System and threatens the viability of the system. The conferees are concerned also about the effect of this problem on the Compensation Trust Fund. The conferees hope this problem can be resolved promptly through legislative action.

FAMILY SUPPORT ADMINISTRATION

Amendment No. 99: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following:

REFUGEE AND ENTRANT ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Refugee and Entrant Assistance", $6,000,000, to be distributed under the targeted assistance program, of which $5,000,000 shall be for health and educational services in areas affected as a result of the massive influx of Cuban and Haitian entrants during the Mariel boatlift, $500,000 shall be available for communities currently conducting a "Fish/Wilson" demonstration project and which have been heavily impacted by the recent influx of Soviet Pentecostals for health and employment services, and $500,000 shall be available for schools in areas impacted by the influx of Indochinese refugees who entered the United States after October 1, 1979, in which the enrollment of Indochinese students (including secondary migrants) is greater than 2,000, and who comprise no less than 20 percent of the overall school enrollment in such a locality with a general population of no less than 75,000 persons: Provided, That the amount provided herein shall be derived by transfer from funds appropriated in Public Law 101-166

for Student Financial Assistance for carrying out activities authorized under part E, section 465 of the Higher Education Act, as amended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement deletes WIN rescission language proposed by the Senate, and substitutes new language which was not included in either House or Senate bill which provides an additional $6.0 million for Targeted Assistance under the Refugee and Entrant Assistance program. $5 million of these funds are provided to offset health and education costs incurred by areas which have been heavily impacted by the massive influx of Cuban and Haitian entrants during the Mariel boatlift. In addition, $500,000 is provided for communities currently conducting a "Fish/Wilson" demonstration project and which have been heavily impacted by the recent influx of Soviet Pentecostals for health and employment services, and an additional $500,000 is provided for schools in areas impacted by the influx of Indochinese refugees who entered the United States after October 1, 1979, in which the enrollment of Indochinese students (including secondary migrants) is greater than 2,000, and who comprise no less than 20 percent of the overall school enrollment in such a locality with a general population of no less than 75,000 persons.

The additional budget authority and outlays which result from this agreement are offset by a transfer from funds appropriated in Public Law 101-166 for Perkins loan teacher cancellation payments which are in excess of current requirements.

Of the amounts agreed to for refugee assistance, $5 million for Cuban-Haitian entrants was previously provided for in H.R. 4828 as introduced in the House of Representatives.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter inserted by said amendment insert the following:

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

For an additional amount for carrying out the Head Start Act, $165,685,000, which shall remain available until December 31, 1990.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

H.R. 4404 as passed the House included no funds for this program, but $165,685,000 was included in H.R. 4828 as introduced in the House of Representatives.

The conferees are concerned over the length of time it has taken the Department to allocate Head Start monies. Therefore, the Department is directed to furnish the Committees with a report, no later than August 1, 1990, on the disbursement of funds for the expansion of the Head Start program that were provided in the regular FY 1990 appropriations act, as well as a timetable for the disbursement of the $165,685,000 provided in this supplemental bill. The Department is expected to move expeditiously in the allocation of funds for expansion in order that additional children are brought into the Head Start program as soon as possible.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

Amendment No. 101: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following:

SCHOOL IMPROVEMENT PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "School Improvement Programs", $20,945,000, to remain available until September 30, 1991, of which $19,945,000 shall be to continue funding of existing School Dropout Demonstration programs as authorized under title VI, Part A and $1,000,000 shall be for carrying out the Javits Gifted and Talented Education Program as authorized under title IV, Part B of the Elementary and Secondary Education Act of 1965, as amended: Provided, That $2,520,000 of the amount provided herein shall be derived by transfer from funds appropriated in Public Law 100-436 for Student Financial Assistance for carrying out activities authorized by Part E, section 465 of the Higher Education Act, as amended: Provided further, That funds available under Public Law 101-164 for grants to States under the Drug-Free Schools and Communities Act shall also be available for Indian Youth under sections 5112(a)(2) and 5133, and for Hawaiian Natives under sections 5112(a)(3) and 5134.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement modifies and consolidates language added by the Senate in amendments 101, 102, and 103 all of which relate to the School Improvement Programs appropriation account. The agreement provides the full $19,945,000 for dropout demonstration grants as proposed by the Senate and provides that these funds shall be allocated by the Secretary as continuation awards to grantees funded in 1989. The conferees expect these funds to be awarded by September 1, 1990.

The conference agreement also includes $1,000,000 for grants under the Javits Gifted and Talented Education program instead of the $4,000,000 proposed by the Senate in amendment No. 103.

The conferees have provided supplemental funding to be awarded within the normal competitive process to support additional pending applications for the Javits Gifted and Talented program. The conferees urge that special priority be given to applications from States that have yet to establish a comprehensive approach to teaching gifted and talented students particularly those students in urban areas. Applications which would address the problems of underrepresentation in gifted and talented programs for the economically disadvantaged, those students with limited English speaking ability and minority groups should be given priority.

Finally, the conference agreement deletes the additional appropriation of $2,038,000 for Drug-Free Schools included by the Senate under amendment 102 but includes language clarifying that funds previously appropriated under Public Law 101-164 for Grants to States are also available for Indian and Native Hawaiian Youth as provided for under the basic law. The conferees expect that an additional $2,038,000 will be made available for these activities.

The additional outlays which result from this agreement are offset by a transfer of Fiscal Year 1989 funds for Student Financial Assistance. These funds are in excess of current requirements for loan cancellation payments under the Perkins program as provided for under Public Law 100-436.

While H.R. 4404 as passed the House did not include any provisions similar to amendments 101, 102, and 103, the amounts agreed to are the same as provided for in H.R. 4828 as introduced in the House of Representatives.

Amendment No. 102: Deletes appropriations of $2,038,000 for "School improvement programs" proposed by the Senate. (see Amendment No. 101).

Amendment No. 103: Deletes appropriation of $4,000,000 for "School improvement programs" proposed by the Senate. (see Amendment No. 101).

EDUCATION FOR THE HANDICAPPED

Amendment No. 104: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following:

EDUCATION FOR THE HANDICAPPED

Funds appropriated under section 619 of the Education of the Handicapped Act for fiscal year 1989 shall remain available for obligation by States through September 30, 1992.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment makes a technical change extending the availability of fiscal year 1989 funds for Preschool Grants through September 30, 1992. This language was requested by the Administration in the Fiscal Year 1991 Budget. The conference agreement modifies language inserted by the Senate to make clear that the extended availability for obligation of funds for the Preschool Grant program applies to obligation by the States.

STUDENT FINANCIAL ASSISTANCE

Amendment No. 105: Deletes language proposed by the House relating to Pell grant shortfalls in the 1989-90 award year.

RELATED AGENCIES

Amendment No. 106: Inserts heading as proposed by the Senate.

NATIONAL COMMISSION ON CHILDREN

Amendment No. 107: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended as follows:

In lieu of the sum named in said amendment, insert the following: *$400,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

Amendment No. 108: Deletes language proposed by the Senate that would have provided additional funds for the White House Conference on Library and Information Services.

CHAPTER VI

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

CONGRESSIONAL DIRECTIVES

Report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

(DISAPPROVAL OF RESCISSION)

Amendment No. 109: Deletes Senate language which had the effect of disapproving Rescission Proposal No. R90-1, in the amount of $4,075,000 relating to the Buildings and Facilities account of the Agricultural Research Service. These funds will become available on June 18, 1990, without further action by the Congress.

COOPERATIVE STATE RESEARCH SERVICE

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 110: Inserts a paragraph heading as proposed by the Senate.

Amendment No. 111: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which transfers $250,000 from the higher education account to the Federal Administration account of the Cooperative State Research Service. This transfer has been made in order to allow the development of a vocational agriculture curriculum for aquaculture education as intended by Congress in the fiscal year 1990 Rural Development, Agriculture, and Related Agencies Appropriations Act. This provision was included in the House introduced bill (H.R. 4828).

BUILDINGS AND FACILITIES

(DISAPPROVAL OF RESCISSION)

Amendment No. 112: Deletes Senate language which had the effect of disapproving Rescission Proposal No. R90-2, in the amount of $41,008,000 relating to the Buildings and Facilities account of the Cooperative State Research Service. These funds will become available on June 18, 1990, without further action by the Congress.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Amendment No. 113: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $8,000,000 for the Animal and Plant Health Inspection Service. The conference agreement includes $6,800,000 for grasshopper control efforts and $1,200,000 for the pseudorabies eradication effort. This provision was included in the House introduced bill (H.R. 4228).

FOOD SAFETY AND INSPECTION SERVICE

Amendment No. 114: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $4,400,000: Provided, That none of the funds appropriated or otherwise made available by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990, Public Law 101-161, shall be used to pay the salaries of personnel who carry out an export enhancement program if the aggregate amount of funds and/or commodities under such program exceeds $553,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $4,400,000 for the Food Safety and Inspection Service instead of $6,884,000 as proposed by the Senate. The $4,400,000 provided will prevent the furlough without pay of any food inspectors. In addition, the conference agreement limits the export enhancement program to $553,000,000 instead of $556,000,000 as proposed by the Senate. H.R. 4828 included $4,400,000 for the Food Safety and Inspection Service and a ceiling of $550,000,000 on the export enhancement program.

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

Amendment No. 115: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATION AND OPERATING EXPENSES

For an additional amount for administrative and operating expenses, as authorized by the Federal Crop Insurance Corporation Act, as amended (7 U.S.C. 1516), $15,000,000: Provided, That these funds shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $15,000,000 for administrative and operating expenses of the Federal Crop Insurance Corporation as proposed by the Senate. In addition, the conference agreement makes the appropriation contingent upon the submission of an official budget request for a specific dollar amount. This provision was included in the House introduced bill (H.R. 4828).

The conferees expect that not less than $300,000 of the funds available to the Commission for the Improvement of the Federal Crop Insurance Program be returned to the Federal Crop Insurance Corporation administrative and operating expenses account. The conferees expect the Commission to terminate operations by the end of fiscal year 1990.

FARMERS HOME ADMINISTRATION

RURAL WATER AND WASTE DISPOSAL GRANTS

The conferees are advised that 89 percent of the users of the planned south Washington County, Arkansas rural development water project have water sources classified as unsafe, and note that some users are drawing water from stock ponds. The conferees will expect the Secretary to give attention to meeting the needs of this community, and consider using funds from the recovery of prior year obligations, if any, for this need.

WETLANDS

The conferees agree that wetlands described in Executive Order 11990 of the President shall be protected, thus reserving non-wetland farmlands for farming. The conferees further agree that in each case where foreclosed farmland was sold to the original owner or family member subject to wetlands easements on nonwetland farmland, excluding valid buffer zones, the Farmers Home Administration shall issue a deed free of such easement.

RURAL ELECTRIFICATION ADMINISTRATION

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

The Administration has proposed the reduction of insured loan levels in the amounts of $23,500,000 for electric loans and $105,900,000 for telephone loans. The conferees reject this proposal.

Furthermore, the conferees direct that the maximum amounts of loan funds authorized in the 1990 Rural Development, Agriculture, and Related Agencies Appropriations Act be made available for obligation. An unfunded balance of $550,000,000 in eligible loan applications is anticipated for the end of fiscal year 1990. This situation is unnecessary because Congress has consistently made sufficient funds available to cover the need by authorizing a range of loan levels.

FOOD AND NUTRITION SERVICE

COMMODITY SUPPLEMENTAL FOOD PROGRAM

Amendment No. 116: Appropriates $3,100,000 for the commodity supplemental food program instead of $4,700,000 as proposed by the Senate. The amount provided should allow the commodity supplemental food program to serve, at minimum, the March 1990 actual participation levels through the end of the fiscal year. This provision was included in the House introduced bill (H.R. 4828).

FOOD STAMP PROGRAM

Amendment No. 117: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$1,200,000,000, which shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $1,200,000,000 for the food stamp program. In a letter to the House and Senate Appropriations Committees dated May 2, 1990, the Secretary of Agriculture stated:

* * * * *

The House bill contains $510 million. The Senate bill provides $705 million. Both of these figures were consistent at the time of their enactment with the best information that was available. However, more recent information which has just become available indicates that even the $705 million in the Senate bill may not be sufficient. Program participation is continuing to grow by nearly 200,000 individuals per month. Participation in March grew to almost 20.3 million, an increase of nearly 400,000 over February and 1.3 million (7 percent) since the end of last fiscal year. Continuation of this trend would mean that the unfunded need could approach $1.2 billion.

We will continue to monitor this program closely and keep the Committees informed. It is at least possible that the normal seasonal decline in participation may not occur in the next several months. This uncertainty causes us to again commend to your attention the Administration's proposal for an open-ended appropriation for this program. However, if the Committees continue to believe that a specific appropriation should be provided, our best advice is that a supplemental of at least $1.2 billion will cover the need and reasonable assurance that full benefits can be continued for the remainder of this fiscal year.

* * * * *

In view of the request of the Secretary of Agriculture, the conferees recommend that the food stamp program be fully funded at a level of $1,200,000,000.

In addition, the conference agreement makes the appropriation contingent upon the submission of an official budget request for a specific dollar amount. This provision was included in H.R. 4829.

INDEPENDENT AGENCY

COMMODITY FUTURES TRADING COMMISSION

Amendment No. 118: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$2,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $2,000,000 for the Commodity Futures Trading Commission instead of $3,655,000 as proposed by the Senate. The House bill had no similar provision.

CHAPTER VII

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

Amendment No. 119: Appropriates $245,000,000 for the loan guaranty revolving fund as proposed by the Senate and specified in H.R. 4828, instead of $150,000,000 as proposed by the House in H.R. 4404.

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

Amendment No. 120: Appropriates $94,000,000 for medical care as proposed by the Senate and specified in H.R. 4828, instead of $50,000,000 as proposed by the House in H.R. 4404. The conferees agree that at least $30,000,000 of the amount provided is to be used to increase employment to the 194,638 level by the end of the fiscal year. The balance of up to $64,000,000 is for additional medical equipment and supplies.

Amendment No. 121: Restores language proposed by the House and stricken by the Senate earmarking $7,227,000,000 of the total 1990 medical care appropriation for personnel compensation and benefits object classifications. This will ensure adequate funds are made available to support an average employment of 194,638 by the end of the fiscal year.

DEPARTMENTAL ADMINISTRATION

Amendment No. 122: Restores language proposed by the House and stricken by the Senate increasing the amount available in the 1990 general operating expenses appropriation for travel by $1,000,000. This action does not increase the total amount of funds available in 1990 for general operating expenses but does provide the VA with flexibility to meet current requirements.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

Amendment No. 123: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In the heading "Housing for the elderly and handicapped fund", strike the word "and" and insert *"or"*.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement extends indefinitely the period during which fiscal year 1990 housing for elderly or handicapped fund direct loan authority is available, amended to make a technical change in the heading.

COMMUNITY PLANNING AND DEVELOPMENT

Amendment No. 124: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

COMMUNITY DEVELOPMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding the repeal of section 107(b)(3) of the Housing and Community Development Act of 1974 by section 105(b) of the Department of Housing and Urban Development Reform Act of 1989, funds appropriated under the Community Development Grants heading of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990, pursuant to such section 107 shall be available for grants to Indian tribes.

The paragraph under this head in title II of Public Law 101-144 (approved November 9, 1989) (103 Stat. 839, 849-850) is hereby amended by inserting, immediately before the final colon in the third proviso, a semicolon and the following: "and the amounts set forth for the 27 projects and purposes specified at page 19 (other than those three projects specified in this and the immediately preceding proviso) and for the first 10 projects specified on page 20, of the Joint Explanatory Statement of the Committee of Conference on H.R. 2916 (House Report 101-297), shall be made available for such projects and purposes".

The amount to be derived by transfer from the urban development action grants account to this head under Public Law 101-144 shall include all unobligated balances available at the end of fiscal year 1989: Provided, That such unobligated balances shall be made available for purposes authorized by section 106 of the Housing and Community Development Act of 1974: Provided further, That those amounts that are required to fund urban development action grant projects which have received preliminary approval in accordance with regulations promulgated by the Department of Housing and Urban Development shall not be transferred: Provided further, That the Secretary of Housing and Urban Development shall withhold from the amount subject to transfer such funds as may be necessary to comply with orders of United States Courts which direct the Secretary to set aside funds for possible future approval of grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301).

Of the amount that otherwise would be available under this head under Public Law 101-144 for technical assistance activities to be allocated at the discretion of the Secretary, under section 107(b)(4) of the Housing and Community Development Act of 1974, $14,000,000 shall be made available under section 106 of such Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language which: (1) permits the use of community development grant funds appropriated in 1990 for grants to Indian tribes; (2) authorizes the special projects set forth in the 1990 conference report; (3) transfers unobligated balances in the urban development action grants program to the community development grants account; and (4) makes $14,000,000 of technical assistance funds available for section 106 activities as specified in the House introduced bill (H.R. 4828), instead of including only the first two paragraphs as proposed by the Senate.

Amendment No. 125: Deletes language proposed by the House and stricken by the Senate transferring unobligated balances from the urban development action grants program to the urban homesteading program to expand the homesteading of additional Federal Housing Administration properties.

Amendment No. 126: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate exempting the State of Vermont from certain rent control provisions. This language was also included in the House introduced bill (H.R. 4828).

Amendment No. 127: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that the Beechwood Towers Housing Development Grant project in Pittsburgh not be canceled prior to December 31, 1990. This language was also included in the House introduced bill (H.R. 4828).

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

Amendment No. 128: Inserts language appropriating $500,000 for salaries and expenses as proposed by the Senate and specified in H.R. 4828.

ENVIRONMENTAL PROTECTION AGENCY

Amendment No. 129: Inserts center heading as proposed by the Senate.

Amendment No. 130: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

ABATEMENT, CONTROL, AND COMPLIANCE

For an additional amount for "Abatement, control, and compliance", $1,800,000, to remain available until September 30, 1991: Provided, That of the funds appropriated under this head in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (Public Law 101-144), $500,000 shall be available for a lead storage battery recycling pilot project for the State

of New Jersey, to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language appropriating $1,800,000 for the additional cost of renovating a Great Lakes research vessel. This language was included in the House introduced bill (H.R. 4828).

The conferees also urge that from within available resources $900,000 be allocated to the State of Michigan for a zero waste sulfonation and other technologies program applied to municipal and household wastes.

Finally, the conferees are very concerned over the failure of the Administration to provide adequate policy attention to the issue of lead poisoning due to exposure to lead-based paint. While significant scientific and technical questions abound as to the nature of this health risk, effective testing techniques, and reasonable and cost-effective exposure abatement methodologies, the Federal Government has already initiated a multi-billion dollar program for public housing modernization, that will require public housing authorities to confront lead paint testing and abatement. The Congress provided $5,000,000 in EPA's fiscal year 1990 budget to begin work on developing a technically sound program and policy. The conferees are concerned that uncertainties over continued support of this work over the next few fiscal years have prompted EPA to propose application of these funds in a manner which fails to match the aggressive, legislatively-mandated abatement program of HUD. The conferees therefore direct EPA to revise its operating plan to accelerate research and policy development activities for the current year, including an appropriate augmentation of staff support for such studies.

Amendment No. 131: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate extending the 1990 exemption from establishing State revolving loan funds for certain governments with construction grants appropriations to funds appropriated in prior and future years and makes a technical change in reference to the Republic of Palau. This language was also included in the House introduced bill (H.R. 4828).

FEDERAL EMERGENCY MANAGEMENT AGENCY

Amendment No. 132: Deletes language appropriating $500,000 for emergency management planning and assistance as proposed by the Senate.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Amendment No. 133: Deletes language rescinding $36,077,000 of 1990 space flight, control and data communications funds as proposed by the Senate.

Amendment No. 134: Appropriates $32,970,000 for research and program management as proposed by the House, instead of $45,000,000 as proposed by the Senate.

Amendment No. 135: Transfers $14,970,000 from the space flight, control and data communications account to the research and program management account as proposed by the House, instead of $27,000,000 as proposed by the Senate.

NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

(TRANSFER OF FUNDS)

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate transferring $500,000 of the funds earmarked for the public housing modernization program in the 1990 annual contributions for assisted housing appropriation to fund the Commission. This language was also included in the House introduced bill (H.R. 4828).

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

(TRANSFER OF FUNDS)

Amendment No. 137: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate transferring $2,000,000 of the funds earmarked for the public housing modernization program in the 1990 annual contributions for assisted housing appropriation to fund the Commisison. This language was also included in the House introduced bill (H.R. 4828).

CHAPTER VIII

DEPARTMENT OF TRANSPORTATON

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Amendment No. 138: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $5,000,000 in liquidating cash for highway traffic safety grants and increasing the limitation on obligations for alcohol safety incentive grants by $5,000,000. This amount was also included in the House introduced bill (H.R. 4828).

CHAPTER IX

DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA FUNDS

Amendment No. 139: Inserts new chapter and headings for fiscal year 1990 supplemental appropriations for the District of Columbia government as proposed by the Senate. The District's supplemental request was submitted in House Document No. 101-186 and is included in H.R. 4228 as introduced in the House and as Senate amendments to the original Dire Emergency Supplemental. The District's fiscal year 1990 supplemental request reflects a net reduction in operating expenses of $25,466,000 and a net increase in the capital outlay program of $51,887,000. The recommendations of the conferees are discussed under subsequent amendments in this chapter.

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

Amendment No. 140: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates an additional $99,000 and rescinds $3,317,000 for a net decrease of $3,218,000 in appropriations for the various departments and activities included under this heading. The appropriation and this recission were also in the House introduced bill (H.R. 4828).

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

Amendment No. 141: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $50,000: Provided, That of the funds appropriated under this heading for the fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1269), $10,498,000 are rescinded for a net decrease of $10,448,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action appropriates an additional $50,000 and rescinds $10,498,000 for a net decrease of $10,448,000 as contained in the House introduced bill (H.R. 4828) instead of appropriating an additional $50,000 and rescinding $10,478,000 for a net decrease of $10,428,000 as proposed by the Senate. The changes reflect technical adjustments required to conform the totals to the individual items that were submitted in the District's request.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

Amendment No. 142: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $7,750,000: Provided, That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168, 103 Stat. 1269 to 1271), $2,739,000 are rescinded for a net increase of $5,011,000: Provided further, That of the $50,000,000 previously appropriated under the heading "Criminal Justice Initiative", $10,000,000 shall be paid to the District of Columbia government to pay amounts due to the Federal Bureau of Prisons and State governments and facilities for the housing of District of Columbia Code violators: Provided further, That by November 30, 1990, the District of Columbia government shall pay $10,000,000 (from current operating revenues collected during fiscal year 1991 and not from the proceeds of borrowed funds) to the United States Treasury, and such payment shall be credited to and be available for the purposes of the "Criminal Justice Initiative" for the construction of the Correctional Treatment Facility: Provided further, That no actions taken pursuant to any of the provisions of this heading may be carried out in a manner that will delay the construction of such Correctional Treatment Facility.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action appropriates an additional $7,750,000 and rescinds $2,739,000 for a net increase of $5,011,000 instead of appropriating an additional $7,750,000 and rescinding $5,739,000 for a net increase of $2,011,000 as contained in the House introduced bill (H.R. 4828) and the Senate amendment to the original Dire Emergency Supplemental. The conferees have also agreed, although reluctantly, to allow the District to finance $10,000,000 of the current operating expenses by using

$10,000,000 of the $50,000,000 in Federal funds previously appropriated for construction of the new Correctional Treatment Facility. This matter is discussed later in this report under "Drawdown of Correctional Treatment Facility Funds".

Metropolitan Police Department.—The conferees have not approved the request to rescind $3,000,000 in funds for the Metropolitan Police Department. The requested rescission of $3,000,000 would have reduced the department's ability to target specific areas of the city for enforcement purposes and would have lowered the police profile throughout the city. The rescission would have also jeopardized the department's ability to provide new recruits with adequate equipment and supplies, thus delaying their deployment. The conferees have not approved the reduction of $1,000,000 in the department's equipment budget to provide pay-as-you-go capital financing to renovate a building to house the Special Operations Division (SOD). It is the understanding of the conferees that units of the SOD were recently relocated from the site of the new correctional treatment facility and that the city's master plan calls for the eventual relocation of the SOD to a permanent site elsewhere in the District. This matter will be discussed during the upcoming hearings on the District's fiscal year 1991 budget.

Drawdown of Correctional Treatment Facility Funds.—The conference action also includes language that allows the District government to finance $10,000,000 of current operating expenses by using $10,000,000 of the $50,000,000 in Federal funds appropriated through fiscal year 1989 for construction of the new Correctional Treatment Facility. These funds will be used to pay the Federal Bureau of Prisons and various State governments and facilities for the costs of housing District of Columbia inmates in non-District facilities.

The conferees have reluctantly agreed to this financing arrangement and have done so only after adding language to require the District government to repay the $10,000,000 by November 30, 1990, from current operating revenues collected during fiscal year 1991 and not from the proceeds of borrowed funds. The conferees have not approved the District government's proposal to replace the Fedeal funds with borrowed funds which would burden future District taxpayers who would have to pay the interest costs on such funds over the amortized period. Likewise, the conferees are concerned that the financing of some programs originally funded in the operating budget has been switched to the capital budget which, of course, is financed with borrowed funds that have to be repaid over periods of 5 to 30 years requiring District taxpayers to shoulder the added burden of interest costs as well a the principal repayment. The conferees call on District officials to avoid such financing arrangements in the future.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

Amendment No. 143: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $3,461,000, including $2,682,000 for the D.C. Public Schooools and $779,000 for the Public Library: Provided, That for the funds appropriated under this heading for the fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 State. 1271), $7,882,000 for the D.C. Public Schools, $730,000 for the University of the District of Columbia, $779,000 for the Public Library $643,000 for the Commission on the Arts and Humanities, and $10,000 for the Education Licensure Commission are rescinded for a net decrease of $6,583,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action appropriates an additional $3,461,000 and rescinds $10,044,000 for a net decrease of $6,583,000 with specific allocations of the appropriations and rescissions as contained in the House introduced bill H.R. 4828) instead of rescinding $6,583,000 with no allocations as proposed by the Senate in its amendment to the original Dire Emergency Supplemental.

District of Columbia School of Law.—The conferees are concerned about the effect of the denial by the District government of the Law School's supplemental request. This action could endanger the School's ability to achieve timely American Bar Association (ABA) accreditation. The request totaled $1.5 million and included such essential items as increased rental costs ($62,000), ABA site inspection fee ($15,000), additional building security ($40,000), and library books and equipment ($525,000).

The Law School submitted its application for provisional accreditation to the ABA on December 6, 1989, thus beginning the accreditation process. The Law School's fiscal year 1991 budget request is based on receiving funds to cover its 1990 supplemental needs. The supplemental would have allowed the Law School to reduce it's dependence on District appropriated funds. The District Council's Committee on Education and Libraries stated in its report that "In short, rather than consider the base budget as sacrosanct, and thus ask for additional appropriations for every new need or initiative—which is the practice throughout most of the District Government, the Law School is attempting to be fiscally responsible at a time of limited, if not scarce, revenues. The simple fact that the Board of Governors of the Law School would voluntarily propose a reduction in appropriated funds spending in FY 1991 from expected FY 1990 total expenditures, is an indication of the Board's commitment to build a quality institution of higher legal education without unnecessarily expending taxpayers' dollars. It must also be emphasized that through base budget reductions and by expending the balance of its FY 1987 one-time only appropriation in FY 1990, the Law School will need less assistance from the taxpayers next fiscal year than this fiscal year, even though the Law School will have a first through third-year student population for the first time ever and will be undergoing an exhaustive American Bar Association on-site review."

The conferees direct District officials to review the current needs of the D.C. School of Law with an eye toward recommending a reprogramming to cover the School's highest priority increases for fiscal year 1990.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

Amendment No. 144: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount of "Human support services", $4,840,000: Provided, that $640,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees disability compensation: Provided further, That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271), $10,245,000 are rescinded for a net decrease of $5,405,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates an additional $4,840,000 and rescinds $10,245,000 for a net decrease of $5,405,000 as contained in the House introduced bill (H.R. 4828) instead of appropriating an additional $4,840,000 and rescinding $10,245,000 for a net increase of $5,405,000 as proposed by the Senate in its amendment to the original Dire Emergency Supplemental.

Uncompensated Medical Care.—The conferees have become aware of a serious problem at local hospitals concerning uncompensated medical care. According to information provided to the conferees, this problem could total $10,000,000 annually. The problem appears to be getting worse as a result of drug-related violence on the city's streets.

D.C. General Hospital expects to treat twice as many trauma patients as it did just three years ago and 60 percent of those will be uninsured. George Washington University Medical Center has rendered $22,000,000 worth of uncompensated care since 1988. In one recent quarter, the Washington Hospital Center provided more than $6,000,000 in medical care for which it received no payment.

This problem is not limited to the District. The City of Chicago has lost three trauma centers in the past two years as a result of these escalating costs. This does not have to happen and should not be allowed to happen in the District. The conferees expect to discuss this matter with District officials at upcoming hearings on the District's fiscal year 1991 budget and expect District officials to be fully prepared to discuss possible solutions such as those that have been undertaken in Maryland, Virginia, and California.

PUBLIC WORKS

(INCLUDING RESCISSION)

Amendment No. 145: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

PUBLIC WORKS

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271 and 1272), $8,810,000 are rescinded: Provided, That none of the funds contained in this Act or any other Act shall be obligated or ex-

pended by the District of Columbia government to remove the safety fences at the Duke Ellington Memorial Bridge until—

(a) the Mayor's Agent, following an evidentiary determination, has found that the evidence indicates that the circumstances have changed to nullify the 1987 findings of the Mayor's Agent, HPA No. 87-377 (August 20, 1987), as to the benefits of the fences; and

(b) the Mayor has provided a detailed statement to the Committees on Appropriations of the House of Representatives and the Senate explaining the basis for the decision to remove the safety fences.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action rescinds $8,810,000 as contained in the House introduced bill (H.R. 4828) and the Senate amendment to the original Dire Emergency Supplemental and inserts language prohibiting the District government from obligating or expending funds to remove the safety fences at the Duke Ellington Memorial Bridge until the Mayor's Agent has found, following an evidentiary determination, that circumstances have changed to nullify the findings of the Mayor's Agent in *D.C. Department of Public Works* v. *ANC's 1-C and 3-C, et al,* HPA No. 87-377, and the Mayor has provided a detailed statement to the House and Senate Committees on Appropriations explaining the basis for the decision to remove the safety fences. The conference action requires that proper procedures and evidential findings, supported by facts, be made prior to final action. It should also be noted that the District's proposed action would require the District to repay the Federal government $172,000 in funds used to construct the fences in 1986. This would be in addition to the estimated $180,000 in District funds that would have to be paid for modifications to the Bridge.

WASHINGTON CONVENTION CENTER FUND

Amendment No. 146: Appropriates an additional $2,993,000 as included in H.R. 4828 and as a Senate amendment to the original Dire Emergency Supplemental for the three agencies financed under this heading.

REPAYMENT OF LOANS AND INTEREST

Amendment No. 147: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which rescinds $12,336,000 due to lower than anticipated capital expenditures and the capitalization of bond interest costs. This rescission was also included in the House introduced bill (H.R. 4828).

REPAYMENT OF GENERAL FUND DEFICIT

Amendment No. 148: Deletes language proposed by the Senate which would have repealed the paragraph in the fiscal year 1990 D.C. Appropriations Act that requires the District government to reduce its general fund accumulated deficit by $20,000,000.

SHORT-TERM BORROWINGS

Amendment No. 149: Appropriates an additional $3,349,000 as included in H.R. 4828 to cover the costs of issuing revenue anticipation notes in October 1989 rather than January 1990 as originally planned. This amount was also included in the Senate amendment to the original Dire Emergency Supplemental.

OPTICAL AND DENTAL BENEFITS

Amendment No. 150: Appropriates an additional $543,000 as included in H.R. 4828 to cover the costs required by an increase in the number of claims and an increase in the number of eligible employees. This amount was also included in the Senate amendment to the original Dire Emergency Supplemental.

ENERGY ADJUSTMENT

Amendment No. 151: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

ENERGY ADJUSTMENT

The paragraph under the heading "Energy Adjustment" in the Distict of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action repeals language in the fiscal year 1990 D.C. Appropriations Act which required the District government to reduce its energy costs by $2,000,000. The reduction in energy costs has been allocated to individual agencies within the applicable appropriation titles. This provision was included in the House introduced bill (H.R 4828) and as a Senate amendment to the original Dire Emergency Supplemental.

EQUIPMENT ADJUSTMENT

Amendment No. 152: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

EQUIPMENT ADJUSTMENT

The paragraph under the heading "Equipment Adjustment" in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action repeals language in the fiscal year 1990 D.C. Appropriations Act which required the District government to reduce its equipment costs by $6,100,000. The reduction in equipment costs has been allocated to individual agencies within the applicable appropriation titles. This provision was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental.

PERSONAL SERVICES ADJUSTMENT

Amendment No. 153: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

PERSONAL SERVICES ADJUSTMENT

The paragraph under the heading "Personal Services Adjustment" in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.

SUPPLY, ENERGY AND EQUIPMENT ADJUSTMENTS

The Mayor shall reduce authorized supply, energy, and equipment appropriations and expenditures within object classes 20 (supplies), 30a (contracts), and 70 (equipment) in the aggregate amount of $5,000,000 within one or several of the various appropriation headings in this chapter: Provided, That notwithstanding any other provision of law, such reductions shall not be allocated to any activities or programs of the Metropolitan Police Department.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Personal services adjustment.—The conference action repeals language in the fiscal year 1990 D.C. Appropriations Act which required the District government to reduce its personal services costs by $31,550,000. This lump-sum reduction has been allocated to individual agencies within the applicable appropriation titles. This provision was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental.

Supply, energy, and equipment adjustments.—The conference action inserts language to reduce supply, energy, and equipment costs by $5,000,000 instead of $2,000,000 as contained in the District's request and in the House introduced bill (H.R. 4828). The conference action also includes language providing that none of this reduction shall be allocated to any activities or programs of the Metropolitan Police Department.

CAPITAL OUTLAY

Amendment No. 154: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

CAPTIAL OUTLAY

(INCLUDING RESCISSION)

For an additional amount for "Capital outlay", $79,802,000, to remain available until expended: Provided, That $27,915,000 of prior year authority is rescinded for a net increase of $51,887,000: Provided further, That $2,362,000 shall be available for project management and $2,116,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Seante.

The conference action appropriates $79,802,000 and rescinds $27,915,000 of prior year authority for a net increase of $51,887,000 as contained in the House introduced bill (H.R. 4828) instead of appropriating $76,102,000 and rescinding $24,215,000 of prior year authority for a net increase of $51,887,000 as proposed by the Senate. The changes recommended by the conferees and included in the House introduced bill (H.R. 4828) are technical adjustments required to conform the totals to the individual items that were approved by the District and included in their request.

WATER AND SEWER ENTERPRISE FUND

(INCLUDING RESCISSION)

Amendment No. 155: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates an additional $12,026,000 and rescinds $17,680,000 for a net decrease of $5,654,000. This appropriation and this rescission were included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental.

CHAPTER X

Amendment No. 156: Inserts a center heading as proposed by the Senate.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 157: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which extends the availability of the $500,000 appropriated to the Office of Administration in fiscal year 1990 for the White House Conference on Indian Education. This amendment makes funds appropriated in fiscal year 1990 available until expended.

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS FOR NATURAL DISASTERS

Amendment No. 158: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS FOR NATURAL DISASTERS

For an additional amount for "Unanticipated Needs for Natural Disasters", $5,000,000, to remain available until expended, to enable the President to meet unanticipated needs arising from natural disasters occurring on March 13, 1990: Provided, That, notwithstanding any other provision of law, not less than $2,500,000 of such additional amount shall be available to meet disaster assistance needs in the State of Nebraska, and not less than $2,500,000 shall be available to meet disaster assistance needs in the State of Kansas.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees recommend an appropriation of $5,000,000 to provide disaster assistance to communities in the States of Nebraska and Kansas which sustained significant tornado damage on March 13, 1990. To meet disaster assistance needs in the State of Kansas, not less than $2,500,000 shall be transferred to the Economic Development Administration for title IX sudden and severe dislocation projects. To meet disaster assistance needs in the State of Nebraska, not less than $2,500,000 shall be transferred to the Federal Emergency Management Agency for a grant to the State of Nebraska. This assistance shall be without regard to the requirements of the Robert T. Stafford Disaster Assistance Act.

CHAPTER XI

LEGISLATIVE BRANCH

U.S. SENATE

PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

Amendment No. 159: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides the traditional payment to the widow of Spark M. Matsunaga, late a Senator from Hawaii.

TITLE III—GENERAL PROVISIONS

SEC. 306

Amendment No. 160: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which adds a general provision amendment Sec. 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (P.L. 101-162). The Senate amendment adds a new subsection to Sec. 610 of said Act which amends the term "export license applications" to include requests for approval of technical assistance agreements or services that would serve to facilitate the launch of U.S.-built satellites on Soviet- or Chinese-built launch vehicles. The House bill contained no similar provision.

The provision in the conference agreement is intended to clarify the language adopted in Sec. 610 of P.L. 101-162. That language prohibits the reinstatement or approval of export license applications for launch of U.S.-built statellites on Soviet- or Chinese-built launch vehicles unless the President reports to Congress that the People's Republic of China has made progress on certain political reforms or that the reinstatement or approval of such export license applications is in the national interest of the United States. The statutory language added by the conference agreement clarifies that such export license applications include requests for approval of technical assistance agreements or services that would facilitate launch of such satellites. The conferees emphasize that this provision applies only to export license applications by U.S. companies for such agreements which could facilitate the use of Soviet- or Chinese-built launch vehicles for possible launch of U.S.-built satellites. The conferees wish to make clear that, as under current law, the conference agreement allows the President to waive the new provision if he determines that approval of an export license application for such a technical assistance agreement is in the national interest of the United States.

Amendment No. 161: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 307. None of the funds appropriated by this or any other Act with respect to any fiscal year for contractual services support of the U.S. Antarctic Program may be obligated for procurement of a multibeam bathymetric sonar mapping system manufactured outside of the United States: Provided, That not to exceed $2,400,000 shall be available for the total cost of such procurement, including software: Provided further, That this section shall not be applicate to any procurement covered by the GATT Agreement on Government Procurement.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language concerning the procurement and cost of a mapping system for a research vessel. Parts of this language were in the Senate amendment and in the House introduced bill (H.R. 4828).

Amendment No. 162: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate making a technical change in section 319 of the Department of Transportation and Related Agencies Appropriations Act, 1990, regarding the use of funds previously appropriated to the Federal Aviation Administration. This provision was also included in the House introduced bill (H.R. 4828).

Amendment No. 163: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate directing the Secretary of Transportation to make available funds previously appropriated for "Project Break-Even" administered by the Tri-County Metropolitan Transportation District of Oregon. This provision was also included in the House introduced bill (H.R. 4828).

Amendment No. 164: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 310. Funds appropriated under Public Law 101-164, the Department of Transportation and Related Agencies Appropriations Act, 1990, for Highway Demonstration Projects involving railroad overpasses in Las Vegas, New Mexico, may be used for construction: Provided, That for loans to the Chicago, Missouri and Western Railroad, or its successors, authorized in Public Law 101-164, $3,500,000: Provided further, That such loans shall be made available no latter than thirty days after enactment of this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. This provision was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental.

Amendment No. 165: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks certain amounts appropriated in Public Law 101-130 and remaining available as of April 16, 1990, for the forest research, State and private forestry and National forest system accounts of the Forest Service. The language also provides that $15,153,000 of funds appropriated in Public Law 101-130 are rescinded.

Amendment No. 166: Deletes language proposed by the Senate which would have (1) removed the restriction on the use of locally-raised revenues to perform abortions in the District of Columbia while continuing the restriction on the use of Federal funds except in those cases where the mother's life is endangered, (2) allowed the death penalty in certain cases in the District of Columbia, and (3) required a study of early childhood education development programs in the District of Columbia.

Amendment No. 167: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "313" insert: *312*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the Senate language which amends the statutory authority of the United States Capitol Preservation Commission to provide for the transfer of works of fine art, to clarify the intent of the authorizing legislation with respect to certain project activities, and to require an annual report. The conferees wish to point out that the improvement and preservation projects subject to the approval of the Committees on Appropriations encompass planning, surveys, designs and other pre-construction activities, as well as the

construction and installation phases of these projects.

Amendment No. 168: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "314" insert: *313*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the Senate language which extends the jurisdiction of the Capitol Police to include certain parking spaces and contiguous areas.

Amendment No. 169: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "315" insert: *314*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the Senate language which amends the authority of certain Senate leaders with respect to the appointment of consultants.

Amendment No. 170: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "316" insert: *315*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the Senate language which provides for donating surplus Senate personal computer and related equipment and training to the Polish parliament, the result of a recommendation by a Congressional staff delegation established pursuant to S. Con. Res. 74 (October 26, 1989). Additionally, $1,500,000 is reappropriated from unexpended balances in the appropriation account of the Sergeant at Arms and Doorkeeper of the Senate.

Amendment No. 171: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 316. (a) Effective with the fiscal year ending September 30, 1990, and each fiscal year thereafter, subject to the approval of the Committee on Appropriations of the Senate, any unexpended and unobligated funds in the appropriation account for the "Secretary of the Senate" within the contingent fund of the Senate in the case of the Senate and, subject to the approval of the Committee on Appropriations of the House of Representatives, any unexpended and unobligated funds in any appropriation account disbursed by the Clerk of the House in the case of the House of Representatives, which have not been withdrawn in accordance with the paragraph under the heading "General Provisions" of Chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 102a), shall be available for the expenses incurred, without regard to the fiscal year in which incurred, for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the Senate wing of the United States Capitol, any Senate Office Building, or any room, corridor, or other space therein in the case of the Senate and for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the House wing of the United States Capitol, any House Office Building, or any room, corridor, or other space therein or for other purposes as authorized by law in the case of the House of Representatives.

In the case of replication or replacement of such items, the funds available under this subsection shall be available for any such items previously contained within the Capitol, or an item historically accurate.

(b) All such items of art, fine art, or historical items referred it in subsection (a) shall be known as the "United States Senate Collection" in the case of the Senate and the "United States House of Representatives Collection" in the case of the House of Representatives.

(c) Disbursements for expenses incurred for the purposes related to the United States Senate Collection shall be made upon vouchers approved by the Chairman of the Senate Commission on Art or the Executive Secretary of the Senate Commission on Art in the case of the Senate and disbursements for expenses incurred for the purposes related to the United States House of Representatives Collection shall be made upon vouchers approved by the House Office Building Commission in the case of the House of Representatives.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides authority to use certain unexpended and unobligated funds within the contingent fund of the Senate for the conservation and restoration of items of art, as provided in the Senate bill and, in addition, confers similar authority for the House of Representatives, covering art restoration or any authorized expenditure, subject to the approval of the House Committee on Appropriations.

Amendment No. 172: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "318" insert: *317*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the Senate language which provides transfer authority within the Senate contingent fund.

Amendment No. 173: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the section named in said amendment insert: *318*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment prohibits the expenditure or obligation of funds made available to the Department of the Treasury for the downgrading of job classifications or the contracting out of positions in the U.S. Mint Police Force or the Bureau of Engraving and Printing Police Force. It also prohibits the use of funds for any studies to determine the feasibility of contracting out such activities.

BROOME COUNTY, NEW YORK TERMINAL HANDLING SERVICES FACILITY

The conferees are aware of the actions of the U.S. Postal Service in establishing a terminal facility in Broome County, New York which is operated entirely by a private contractor. The conferees believe that legitimate questions have been raised about this situation and its ramifications from the continuation of universal public delivery of the mail, the sancity of the mail and any broader plans the U.S. Postal Service may have to privatize the Postal Service. The conferees believe that these matters should be reviewed by the appropriate legislative committees.

HOLLY SPRINGS, MISSISSIPPI POST OFFICE

House Report 100-498, the conference report accompanying the fiscal year 1988 Appropriations Act (Public Law 100-202), contained the following language:

HOLLY SPRINGS, MISSISSIPPI POSTAL SERVICE

The conferees direct the Postal Service to continue to provide full postal service to the people of Holly Springs proper including upgrading, remodeling, and improving the U.S. Post Office building at 110 North Memphis Street in Holly Springs, Mississippi. It is contemplated that a new building for use as a center for sorting mail will proceed as long as the present building and service is maintained at the main post office and present service is maintained.

That language was an explanation of the following provision of permanent law:

Funds made available to the United States Postal Service pursuant to section 2401(a) of title 39, United States Code, shall be used hereafter to continue full postal service to the people of Holly Springs proper, including upgrading, remodeling, and improving the United States Post Office building located at 110 North Memphis Street in Holly Springs, Mississippi.

(Public Law 100-202 and Public Law 100-440)

Under the agreement and pursuant to this permanent law, the United States Post Office building located at 110 North Memphis Street in Holly Springs, Mississippi, shall continue as the Post Office of Holly Springs, Mississippi, with present operations.

The center for sorting mail may be designated as a station.

Amendment No. 174: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 319. The Secretary of the Army is directed to execute a local cooperation agreement prior to July 1, 1990, for construction of a modification of the existing Gulfport Harbor project in Mississippi as authorized by the Supplemental Appropriations act, 1985, (Public Law 99-88), section 202(a) of the Water Resources Development Act of 1986 (Public Law 99-662), and section 4(n) of the Water Resources Development Act of 1988 (Public Law 100-676).

Within available funds, the Secretary of the Interior is authorized to obligate up to $12,000,000 to initiate safety of dams modifications at Mormon Island Auxiliary Dam (Folsom Dam and related facilities) of the Central Valley Project, California, authorized under Public Law 95-578, as amended, absent the transmission of the report de-

scribed in the proviso of section 5 of Public Law 95-578, as amended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement directs the Secretary of the Army to execute a local cooperation agreement for the Gulfport Harbor, Mississippi, modification project by July 1, 1990, as proposed by the Senate. This provision was also included in H.R. 4828 which was introduced in the House of Representatives.

The conference agreement also, due to the drought situation in California, provides for dam safety work. As a result of the drought conditions in California, the Bureau of Reclamation has the opportunity to initiate dam safety work at the Mormon Island Auxiliary Dam that will result in significant cost savings compared to performing the work when the reservoir is at higher levels. Accordingly, the conferees have authorized the Bureau to initiate work, including solidification of the foundation of Mormon Island Auxiliary Dam, even though the dam safety report required by Section 5 of Public Law 95-578 has not yet been submitted to Congress.

SEC. 320

Amendment No. 175: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the first section number named in said amendment, insert: *320*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the provision contained in the Senate amendment to the original Dire Emergency Supplemental and included in the House introduced bill (H.R. 4828) which repeals Sec. 614 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, and makes certain technical corrections to that Act and the Foreign Relations Authorization Act, FY 1990 and FY 1991.

COMMERCIAL ASPECTS OF U.S. FOREIGN ASSISTANCE

Amendment No. 176: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 321. COMMERCIAL ASPECTS OF UNITED STATES FOREIGN ASSISTANCE—(a). The Secretary of Commerce, after consulting with the Administrator of the Agency for International Development, the Secretary of Agriculture, the Secretary of Energy, the Secretary of Treasury, the Secretary of State, other appropriate agencies of the United States Government, and United States business organizations, shall conduct a study which examines and explores the foreign assistance programs currently engaged in by the United States Government and major international financing programs of the United States Government, through the Agency for International Development and other appropriate departments and agencies of the United States Government and explores mechanisms and ways by which the international economic competitiveness of the United States may be enhanced through such programs. In undertaking this study, the Secretary shall—

(1) examine the foreign assistance and major financing programs of Japan, West Germany, France, the United Kingdom, and such other international aid donors as the Secretary may designate, for the purpose of determining what mechanisms are in use to tie foreign assistance to, and advance the industrial and commercial interests of, the donor nations, in particular, the programs currently being engaged in and planned by such countries in the Eastern European countries of East Germany, Poland, Czechoslovakia, and Hungary; and

(2) determine, as far as possible, for each of fiscal years 1989 and 1990, and requested for fiscal year 1991, the dollar amounts and percentages of current United States programs which support United States business investment, exports, or other business-related activities, and shall compare that assessment with a similar assessment made for each of the other international aid donors examined by this study, on a region-by-region basis, with particular attention paid to the comparable efforts in the Eastern European countries referred to in paragraph (1).

(b) Not later than September 20, 1990, the Secretary of Commerce shall prepare and transmit to the Committees on Foreign Relations and Appropriations of the Senate and the Committees on Foreign Affairs and Appropriations of the House of Representatives, a report setting forth the findings of the study conducted under subsection (a).

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment added a general provision requiring the Secretary of Commerce to conduct a study of the foreign assistance programs of the United States in consultation with the heads of certain United States Government agencies and Departments, explore mechanisms by which the international economic competitiveness of the United States may be enhanced through such programs and report those findings to the Appropriations Committees and Foreign Affairs Committees by September 1, 1990. The House bill contained no similar provision.

The conference agreement retains the Senate provision but makes certain changes in the language, including the reporting date and the scope of the study to include major international financing programs of the United States Government.

The conferees are concerned that the Secretary of Commerce may not have sufficient time to complete the study and thoroughly comply with all its substantial requirements in the time allowed by the conference agreement. The conferees expect the appropriate officials of the Department to keep the Appropriations Committee informed of any problems in this regard and to work closely with the Committees to ensure delivery of a study that is both timely and responsive to the conference agreement.

Amendment No. 177: Deletes Senate language nullifying the provision that restricts obligation or expenditure of $29,000,000 of Air Force, Operation and Maintenance funds until not less than $7,000,000 is expended as settlement to Contract Number F29650-82-C-0201.

CHILDREN IN CAMBODIA

Amendment No. 178: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first section number named in said amendment, insert: *322.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agreed to provide, as proposed by the Senate, up to $5,000,000 in fiscal year 1990 development assistance funds for assistance through international relief agencies to children within Cambodia. This provision was also included in the House introduced bill (H.R. 4828). None of the funds provided may be made available directly or indirectly for the Khmer Rouge.

While assistance is already provided to the civilian population under the protection of the non-communist resistance on the Thai-Cambodian border, this assistance is intended to address the desperate needs of children, in the part of Cambodia controlled by the government in Phnom Penh, whose access to international assistance has been severely restricted by the isolation of their country. The funds are to be provided only through international relief agencies operating in Cambodia.

The Department of State and the Agency for International Development are to report to the Committees on Appropriations by July 15, 1990 and again by October 15, 1990 on the implementation of this provision.

LEASED HELICOPTERS FOR COLOMBIA

Amendment No. 179: Deletes language proposed by the Senate relating to the leasing of Marine Corps helicopters for Colombia. The conferees are in general agreement with the purpose of the Senate amendment which provided for the lease of four helicopters to Colombia for its drug interdiction program, including training of Colombian personnel in the operation, maintenance, logistical support and development of those helicopters. However, the conferees agreed that the appropriate authority for such a program is Section 506(a) of the Foreign Assistance Act. The Act was amended in the fiscal year 1990 Foreign Assistance Appropriations Act so that the President is authorized to draw down defense articles and provide military education and training for activities relating to international narcotics control assistance. The conferees urge the administration to consider using this authority to aid Colombia drug interdiction programs.

LITHUANIA SENSE OF THE SENATE

Amendment No. 180: Deletes language proposed by the Senate concerning Lithuania. The Sense of the Senate language has been passed by the Senate, and following past practice the conferees have agreed that further action is not necessary.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1990 recommended by the Committee of Conference, with comparisons to the fiscal year 1990 budget estimates, and the House and Senate bills for 1990 follow:

Budget estimates of new (obligational) authority, fiscal year 1990	$1,699,194,400
House bill, fiscal year 1990	615,674,000
Senate bill, fiscal year 1990	827,985,400
Conference agreement, fiscal year 1990	2,315,721,400
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1990	+616,527,000

House bill, fiscal year 1990 ..... +1,700,047,400
Senate bill, fiscal year 1990 ..... +1,487,736,000

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WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES,
DAVID R. OBEY,
EDWARD R. ROYBAL,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
W.G. (BILL) HEFNER,
SILVIO O. CONTE
(except amendment No. 171),
VIRGINIA SMITH
(except amendment No. 171),
MICKEY EDWARDS
(except amendment No. 171),
BILL GREEN
(except amendments Nos. 24 and 171),
HAROLD ROGERS
(except amendment No. 171),
Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
JAMES A. MCCLURE,
THAD COCHRAN,
ROBERT W. KASTEN,
ALFONSE M. D'AMATO,
WARREN B. RUDMAN,
ARLEN SPECTER,
PETE V. DOMENICI,
ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
PATRICK LEAHY,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
HARRY M. REID,
BROCK ADAMS,
WYCHE FOWLER, JR.,
BOB KERREY,
CHUCK GRASSLEY,
DON NICKLES,
PHIL GRAMM,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BARTON of Texas (at the request of Mr. MICHEL) for today between the hours of 7 p.m. until tomorrow at 6 p.m., on account of a family medical emergency.

Mr. HAMMERSCHMIDT (at the request of Mr. MICHEL) for today on account of representing the President at the inauguration of President Lee Teng-Hui of the Republic of Taiwan.

Mr. KOLBE (at the request of Mr. MICHEL) for today from 3 p.m. on account of official business.

Mr. HUTTO (at the request of Mr. GEPHARDT) for today on account of official business.

SPECIAL ORDERS GRANTED

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

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

Mr. BURTON of Indiana, for 60 minutes, on May 22, 23, and 24.

Mr. LEACH of Iowa, for 60 minutes, today.

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

Mr. POSHARD, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HOCHBRUECKNER, for 5 minutes, on June 6.

Mr. WEISS, for 60 minutes each day, on June 5 and 6.

EXTENSION OF REMARKS

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

Mr. DYMALLY, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,972.

Mr. TORRES, prior to the vote on the Kostmayer amendment on H.R. 4636 in the Committee of the Whole today.

Mr. DENNY SMITH of Oregon, concerning his absence, immediately after vote on H.R. 4636, in House, today.

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

Mr. LENT in two instances.
Mr. RHODES.
Mr. GINGRICH in two instances.
Mr. BLAZ.
Mr. BALLENGER.
Mr. GOSS.
Mr. LAGOMARSINO.
Mr. BURTON of Indiana in two instances.
Mr. SHUMWAY.
Mr. HENRY.
Mr. BUNNING.
Mr. GEKAS.
Mr. BAKER.
Mr. GOODLING.
Mr. MACHTLEY in 8 instances.
Mr. DREIER of California.

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

Mr. SABO.
Mr. YATRON.
Mr. SKELTON.
Mr. MILLER of California.
Mr. TORRICELLI in two instances.
Mr. ATKINS.
Mr. MRAZEK.
Mr. BONIOR.
Mr. FROST.
Mr. ROE in two instances.
Mr. LEHMAN of Florida.
Mr. STARK in two instances.
Mr. LANTOS.
Mr. MANTON in two instances.
Mr. WOLPE in three instances.
Mr. TRAFICANT.
Mr. KENNEDY.
Mr. LEVINE of California.
Mr. UDALL.

ADJOURNMENT

Mr. LEACH of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 58 minutes p.m.) the House adjourned until tomorrow, Wednesday, May 23, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

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

3220. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a copy of the original report of political contributions by Eugene L. Scassa, of Virginia, Ambassador Extraordinary and Plenipotentiary-designate to Belize, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3221. A letter from the Administrator, Agency for International Development, transmitting the agencies annual report on competition for fiscal year 1989, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

3222. A letter from the Chairman, Federal Election Commission, transmitting the Commission's inspector general semiannual report for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

3223. A letter from the Chief Justice, Supreme Court of the United States, transmitting a copy of the Report of the Proceedings of the Judicial Conference of the United States, pursuant to 28 U.S.C. 331; to the Committee on the Judiciary.

3224. A letter from the Secretary, Department of Transportation, transmitting a copy of the National Transportation Strategic Planning Study, pursuant to 49 U.S.C. 308 nt.; to the Committee on Public Works and Transportation.

3225. A letter from the Secretary of Agriculture, transmitting two draft bills, the Plant Protection Act, and the Animal Health Protection Act; jointly, to the Committees on Agriculture, the Judiciary, Ways and Means, Foreign Affairs, Post Office of Civil Service, and Energy and Commerce.

3226. A letter from the Director, Office of National Drug Control Policy, transmitting a draft of proposed legislation to implement the national drug control strategy; jointly,

to the Committees on the Judiciary; Energy and Commerce; Public Works and Transportation; Merchant Marine and Fisheries; Foreign Affairs; Banking, Finance and Urban Affairs; Ways and Means; and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XXIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee of conference. Conference report on H.R. 4404 (Rept. 101-493). Ordered to be printed.

Mr. BONIOR: Committee on Rules. House Resolution 399. Resolution providing for further consideration of H.R. 3030, a bill to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air (Rept. 101-494). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. SCHEUER (for himself, Mr. ROE, Ms. SCHNEIDER, Mr. WALKER, Mr. BROWN of California, Mr. WOLPE, Mrs. LLOYD, Mr. VALENTINE, Mr. HAMILTON, Mr. NOWAK, Mr. PRICE, Mr. TANNER, Mr. BROWDER, Mr. BOEHLERT, Mr. MORRISON of Washington, Mr. HENRY, Mr. SMITH of Texas, Mrs. MORELLA, Mr. SHAYS, Mr. TRAFICANT, Mr. TORRICELLI, Mr. MINETA, Mr. MCCURDY, Mr. STALLINGS, and Mr. RITTER):

H.R. 4873. A bill to authorize appropriations for environmental research, development, and demonstration for fiscal years 1991, 1992, and 1993, and for other purposes; to the Committee on Science, Space and Technology.

By Mr. WAXMAN:

H.R. 4874. A bill to amend the Public Health Service Act to establish a program of grants to provide preventive health services with respect to acquired immune deficiency syndrome, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BENNETT:

H.R. 4875. A bill to amend the Federal Water Pollution Control Act to make the lower St. John's River, FL, eligible for priority consideration under the National Esturary Program; jointly, to the Committees on Public Works and Transporation and Merchant Marine and Fisheries.

By. Mr. LENT:

H.R. 4876. A bill to amend the Ocean Dumping Ban Act of 188 to delay the effective date of the prohibition on the ocean dumping of sewage sludge; to the Committee on Merchant Marine and Fisheies.

By Mr. PICKLE:

H.R. 4877. A bill to redesignate the Austin Dam located near Austin, TX, as the "Tom Miller Dam"; to the Committee on Interior and Insular Affairs.

By Mr. SARPALIUS:

H.R. 4878. A bill to establish the Lake Meredith National Recreation Area in the State of Texas, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SCHUMER (for himself, Mr. LEACH of Iowa, Mr. LEHMAN of California, Mr. PRICE, Mr. ROTH, and Mr. VENTO):

H.R. 4879. A bill to require the President to submit quarterly reports through fiscal year 1993 on the estimated cost of resolving the savings and loan crisis and the estimated net new funding which will be required to meet such costs; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BENNETT:

H.R. 4880. A bill to extend veterans' preference on civil service examinations to members of the Armed Forces who are honorably discharged, pursuant to any reduction in force, after having served on active duty for at least 6 consecutive years; to the Committee on Post Office and Civil Service.

By Mr. JACOBS:

H.R. 4881. A bill to suspend temporarily the duty of certain composite diagnostic or laboratory reagents; to the Committee on Ways and Means.

By Mr. NAGLE:

H.R. 4882. A bill to establish a multilateral process of political and economic reform for Eastern Europe and the Soviet Union, to remove various trade restrictions, to encourage peaceful resolutions of regional conflicts, and to set a goal of a 50-percent reduction in United States military spending; jointly, to the Committees on Foreign Affairs; Ways and Means; Banking, Finance and Urban Affairs; Armed Services; and Rules.

By Mr. SCHUETTE:

H.R. 4883. A bill to amend section 922 of title 18, United States Code, to require that firearms dealers call a national hotline for a background check before transfer of firearms, and for other purposes; jointly, to the Committee on the Judiciary and Public Works and Transportation.

By Mr. DANNEMEYER:

H.J. Res. 573. Joint resolution to designate the period commencing on June 16, 1990, and ending on June 27, 1990, as "Food Science and Technology Week"; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana:

H.J. Res. 574. Joint resolution designating June 3-9, 1990, as a "Week for the National Observance of the 50th Anniversary of World War II"; to the Committee on Post Office and Civil Service.

By Mr. SANGMEISTER (for himself, Mr. MONTGOMERY, Mr. HARRIS, Mr. PAXON, Mr. PARKER, Mr. BURTON, of Indiana, Mrs. PATTERSON, Mr. EVANS, Mr. JONTZ, Mr. SMITH of New Jersey, Mr. BILIRAKIS, Mr. STAGGERS, Mr. GEREN, Mr. STUMP, Mr. MCEWEN, and Mr. MORRISON of Connecticut):

H.J. Res. 575. Joint resolution to designate June 25, 1990, as "Korean War Remembrance Day"; to the Committee on Post Office and Civil Service.

By Mr. LAGOMARSINO (for himself, Mr. SOLARZ, Mrs. SAIKI, Mr. BLAZ, and Mr. FALEOMAVAEGA):

H. Res. 398. Resolution urging United States ratification of the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

393. By the SPEAKER: Memorial of the House of Representatives of the State of Illinois, relative to Federal crop insurance; to the Committee on Agriculture.

394. Also, memorial of the House of Representatives of the State of Illinois, relative to savings and loans associations; to the Committee on Banking, Finance and Urban Affairs.

395. Also, memorial of the House of Representatives of the State of Illinois, relative to a White House Conference on Aging in 1991; to the Committee on Education and Labor.

396. Also, memorial of the House of Representatives of the State of Illinois, relative to Lithuania; to the Committee on Foreign Affairs.

397. Also, memorial of the Legislature of the State of Alaska, relative to persons immigrating to and requesting asylum in the United States; to the Committee on the Judiciary.

398. Also, memorial of the Senate of the State of Hawaii, relative to natural disaster reduction; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. LOWEY of New York:

H.R. 4884. A bill for the relief of Leore Shoshana Shemesh; to the Committee on the Judiciary.

By Mr. MCMILLAN of North Carolina:

H.R. 4885. A bill for the relief of Leslie Leigh Moore; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

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

H.R. 222: Mr. JOHNSTON of Florida.

H.R. 446: Mr. HANCOCK and Mr. NIELSON of Utah.

H.R. 467: Mr. GLICKMAN.

H.R. 539: Mr. KOLTER and Mr. MARKEY.

H.R. 1227: Mr. OLIN, Mr. SCHAEFER, Mr. GINGRICH, Mr. MOORHEAD, Mr. LEATH of Texas, Mr. MCDERMOTT, Mr. GUNDERSON, Mr. CRANE, Mr. DOUGLAS, Mr. AUCOIN, and Mr. HAYES of Illinois.

H.R. 1287: Mr. ROHRABACHER.

H.R. 1317: Mr. JENKINS, Mr. DURBIN, Mr. LEWIS of California, Mr. TAUZIN, Mr. DREIER of California, Mr. LOWERY of California, Mr. COSTELLO, Mr. SANGMEISTER, Mr. BAKER, Mr. ROBERTS, Mr. DORNAN of California, Mr. MCCRERY, Mrs. MEYERS of Kansas, and Mr. GALLEGLY.

H.R. 1582: Mr. STARK, Mr. FOGLIETTA, and Mr. YATES.

H.R. 1875: Mr. ROWLAND of Georgia and Mr. RAVENEL.

H.R. 2121: Mr. GOSS, Mr. MILLER of Washington, and Mr. MACHTLEY.

H.R. 2228: Mr. SOLOMON.

H.R. 2353: Mr. DEFAZIO and Mr. MORRISON of Washington.

H.R. 2380: Mr. SCHAEFER.

H.R. 2418: Mr. DANNEMEYER.

H.R. 2460: Mr. JENKINS, Mr. TAYLOR, and Mr. NELSON of Florida.

H.R. 2776: Mr. DOWNEY and Mr. BRYANT.

H.R. 2852: Mr. BROWN of California.

H.R. 2951: Mr. LEVIN of Michigan.

H.R. 2952: Mr. LEVIN of Michigan.

H.R. 3099: Mr. BILIRAKIS, Mr. PALLONE, and Mr. POSHARD.

H.R. 3267: Mr. NEAL of North Carolina.

H.R. 3289: Mr. EDWARDS of Oklahoma, Mr. DENNY F. SMITH, and Mr. KOLBE.

H.R. 3421: Mr. CONDIT.

H.R. 3500: Mr. BRENNAN.

H.R. 3643: Mr. ROHRABACHER.

H.R. 3732: Mr. SHUSTER, Mr. NEAL of Massachusetts, Mr. MURPHY, Mr. DURBIN, and Mr. DYMALLY.

H.R. 3859: Mr. BUSTAMANTE.

H.R. 3880: Mr. TOWNS.

H.R. 3903: Mrs. ROUKEMA.

H.R. 3909: Mr. ESPY and Mr. POSHARD.

H.R. 3924: Mr. GALLEGLY, Mr. HYDE, and Mr. BUNNING.

H.R. 3958: Mr. WATKINS, Mr. MCGRATH, Mr. LANCASTER, Mr. SMITH of New Jersey, Mrs. VUCANOVICH, Mr. CLARKE, and Mr. SCHUETTE.

H.R. 3992: Mr. VOLKMER, Mr. MRAZEK, Mrs. UNSOELD, Mr. MAVROULES, and Mr. HOCHBRUECKNER.

H.R. 4026: Mr. JONTZ, Mr. KOLTER, and Mr. PARKER.

H.R. 4121: Mr. RITTER and Mr. RAVENEL.

H.R. 4138: Mr. SMITH of Florida.

H.R. 4212: Mr. KANJORSKI, Mr. HORTON, Mr. EMERSON, Mr. TOWNS, Mr. FIELDS, and Mr. DEFAZIO.

H.R. 4254: Mr. PRICE.

H.R. 4261: Mr. ARMEY.

H.R. 4287: Mr. FAUNTROY, Mr. HARRIS, Mr. ROWLAND of Connecticut, Mr. WOLPE, Mrs. MARTIN of Illinois, Mr. PORTER, Mr. PARKER, Mr. FAWELL, Mr. CHAPMAN, Mr. MADIGAN, Mr. SCHUETTE, Mr. DICKS, Mr. MCDADE, Mr. MYERS of Indiana, Mr. ERDREICH, and Mr. BURTON of Indiana.

H.R. 4324: Mr. LEVINE of California, Mr. TORRES, and Mr. OWENS of Utah.

H.R. 4329: Mr. PAYNE of New Jersey, Mr. RAVENEL, Mr. MCHUGH, Mr. PAYNE of Virginia, and Mr. HANCOCK.

H.R. 4379: Mr. LEVINE of California, Ms. PELOSI, Mr. WOLPE, and Mr. WILLIAMS.

H.R. 4391: Mr. SISISKY.

H.R. 4424: Mr. WEBER, Mr. BEREUTER, Mr. ROBERTS, Mr. MOORHEAD, Mr. DANNEMEYER, Mr. MADIGAN, Mr. MCCANDLESS, Mr. HASTERT, Mr. PETRI, Mr. CRAIG, and Mr. LOWERY of California.

H.R. 4453: Mr. HOUGHTON, Mr. KLECZKA, Mr. HYDE, and Mr. UPTON.

H.R. 4475: Mr. DOUGLAS, Mr. LIVINGSTON, Mr. RAY, Mr. BURTON of Indiana, Mr. KOSTMAYER, Mr. PACKARD, Mr. ALEXANDER, Mr. PAYNE of Virginia, Mr. STUMP, Mrs. SAIKI, Mr. HAMMERSCHMIDT, Mr. COBLE, Mr. IRELAND, Mr. KASTENMEIER, Mr. VALENTINE, Mr. HOCHBRUECKNER, Mr. JACOBS, Mr. SCHUETTE, Mr. HILER, Mr. CRAIG, Mr. GORDON, Mr. DEFAZIO, Mr. KANJORSKI, Mr. CHAPMAN, Mr. NOWAK, Mr. CLINGER, Mrs. UNSOELD, Mr. FEIGHAN, Mr. ROTH, Mr. DUNCAN, Mrs. ROUKEMA, Mr. CARR, Mr. JONES of Georgia, Mr. AUCOIN, Mr. HORTON, Mr. HUGHES, Mr. ERDREICH, Mr. MOORHEAD, Mr. PICKETT, Mr. JAMES, Mr. PAXON, Mr. SERRANO, Mr. HAYES of Louisiana, Mr. SCHIFF, Mr. SANGMEISTER, Mr. DARDEN, Mr. MRAZEK, Mr. BROWN of Colorado, Mr. RITTER, Mr. RAHALL, Mr. HATCHER, Mr. MILLER of Washington, Mr. MCHUGH, and Mr. UPTON.

H.R. 4494: Mr. MCCOLLUM, Mr. NEAL of Massachusetts, Mr. HATCHER, Mr. SHARP, Mr. GORDON, Mr. PARKER, Mr. BEVILL, Mr. BONIOR, Mr. DYMALLY, Mr. MCMILLAN of North Carolina, Mr. SMITH of Vermont, Mr. HALL of Texas, Mr. IRELAND, and Mr. STEARNS.

H.R. 4528: Mr. FALEOMAVAEGA and Mr. FOGLIETTA.

H.R. 4551: Mr. FAUNTROY, Mr. KILDEE, and Ms. PELOSI.

H.R. 4574: Mrs. BOXER, Mr. LEVINE of California, Mr. FOGLIETTA, Mr. WOLPE, Mr. DWYER of New Jersey, Mrs. UNSOELD, Mr. ROYBAL, and Mr. KOSTMAYER.

H.R. 4650: Mr. BOUCHER, Mr. EVANS, Mr. FOGLIETTA, Mr. JONTZ, Mr. MFUME, Mr. MARTINEZ, and Mr. WOLPE.

H.R. 4659: Mr. HATCHER, Mr. TOWNS, and Mr. GILLMOR.

H.R. 4684: Mr. PENNY, Mr. SERRANO, Mr. ECKART, Mrs. MARTIN of Illinois, and Mr. OWENS of New York.

H.R. 4688: Mr. CROCKETT, Ms. PELOSI, Mr. SYNAR, Mr. YATES, Mr. DYMALLY, Mr. HENRY, Mr. TOWNS, Mr. LANTOS, and Mr. MCNULTY.

H.R. 4697: Mr. DONALD E. LUKENS, Mr. BONIOR, and Mr. EMERSON.

H.R. 4698: Mr. DONALD E. LUKENS, Mr. BONIOR, and Mr. EMERSON.

H.R. 4731: Mr. LIPINSKI, Mr. WHEAT, Mr. FAUNTROY, and Mr. FORD of Tennessee.

H.J. Res. 374: Mr. GEJDENSON and Mr. STUDDS.

H.J. Res. 467: Mr. PARKER, Mr. SCHUETTE, and Mr. CHAPMAN.

H.J. Res. 469: Mr. COUGHLIN, Mr. ENGEL, Mr. GALLO, Mr. GAYDOS, Mr. GRAY, Mr. HANSEN, Mr. LEWIS of Florida, and Mr. PORTER.

H.J. Res. 481: Mr. CAMPBELL of Colorado, Mr. GEJDENSON, Mr. HASTERT, Mr. SERRANO, Mr. WEBER, and Mr. WEISS.

H.J. Res. 512: Mr. WYDEN, Mr. WEISS, Mr. STENHOLM, Mr. SMITH of Florida, Mr. RAHALL, Mr. PARKER, Mr. SAVAGE, Mr. SOLARZ, Mr. TAUZIN, Mr. WILSON, Mr. RANGEL, Mr. ROGERS, Mr. IRELAND, Mr. QUILLEN, Mr. AUCOIN, Mr. ANDERSON, Mr. BILBRAY, Mr. BORSKI, Mr. BENNETT, Mr. BOUCHER, Mr. SCHEUER, Mr. SLATTERY, Mr. TRAFICANT, Mr. WAXMAN, Mr. PERKINS, Mr. WALGREN, Mrs. BOXER, Mr. BUSTAMANTE, Mr. CARR, Mr. CLARKE, Mr. DARDEN, Mr. DICKS, Mr. DIXON, Mr. ENGEL, Mr. ESPY, Mr. FAZIO, Mr. FROST, Mr. GEPHARDT, Mr. NATCHER, Mr. PALLONE, Mr. POSHARD, Mr. SARPALIUS, Mr. SYNAR, Mrs. SAIKI, Mr. SPRATT, Mr. STAGGERS, Mr. TALLON, Mrs. UNSOELD, Mr. VISCLOSKY, Mr. WALSH, Mr. SPENCE, Mr. HUGHES, Ms. LONG, and Mr. HOCHBRUECKNER.

H.J. Res. 517: Mr. HUCKABY, Mr. TANNER, Mr. TAUZIN, Mr. FISH, Mr. DYSON, and Mr. CLEMENT.

H.J. Res. 526: Mr. SAXTON, Mr. SKEEN, Mr. VALENTINE, Mr. JACOBS, Mr. FRENZEL, Mr. HARRIS, Mr. SABO, Mr. CHANDLER, Mr. HOAGLAND, Mr. LIVINGSTON, Mr. KOSTMAYER, Mr. MADIGAN, Mr. MORRISON of Connecticut, Mr. DERRICK, Mr. THOMAS A. LUKEN, Mr. FRANK, Mr. MCCLOSKEY, Mr. JENKINS, Mr. WHITTAKER, Mr. SPRATT, Mr. CALLAHAN, Mr. BEVILL, and Mr. KASTENMEIER.

H. Con. Res. 5: Mr. ROE.

H. Con. Res. 172: Mr. LEVIN of Michigan and Mr. HAYES of Illinois.

H. Con. Res. 232: Mr. KOLTER, Mr. DOWNEY, and Mr. COX.

H. Con. Res. 246: Mr. BONIOR, Mr. MAVROULES, Mr. BOSCO, Mr. HOAGLAND, and Mr. GOSS.

H. Con. Res. 265: Mr. JONTZ.

H. Con. Res. 270: Mr. CARDIN.

H. Con. Res. 287: Mr. IRELAND, Mr. BENNETT, Mr. FOGLIETTA, Mr. PICKETT, Mr. STARK, Mr. MOORHEAD, and Mr. MINETA.

H. Con. Res. 291: Mr. DYMALLY, Mr. VOLKMER, Mr. PICKETT, Mr. HEFLEY, Mr. MRAZEK, Mr. WOLF, Mr. SCHUETTE, Mr. WILSON, Mr. DORNAN of California, Ms. ROS-LEHTINEN, Mr. MCEWEN, Mr. MCNULTY, Mr. GUARINI, Mr. PAXON, Mr. MILLER of Washington, Mr. NAGLE, and Mr. DYSON.

H. Con. Res. 293: Mr. MRAZEK, Mr. MATSUI, and Mr. SCHEUER.

H. Con. Res. 329: Mr. GILMAN, Mr. HYDE, Mr. SMITH of Florida, and Mr. FAUNTROY.

H. Res. 312: Mr. SHAYS and Mr. PERKINS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

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

H.R. 4641A: Mr. HYDE.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

176. By the SPEAKER: Petition of city of Sweetwater, FL, relative to thoroughbred racing in Florida; to the Committee on Energy and Commerce.

177. Also, petition of Dr. Paul Baron Neuman of Kara Bagh, Sydney, Australia, relative to climatic and environmental changes worldwide; jointly, to the Committees on Agriculture and Energy and Commerce.

SENATE—*Tuesday, May 22, 1990*

(Legislative day of Wednesday, April 18, 1990)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

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

Let us pray:

For I know the plans I have for you, says the Lord, plans for welfare and not for evil, to give you a future and a hope.—Jeremiah 29:11 RSV.

Gracious Father, God of Abraham, Isaac and Israel, You made that beautiful promise to Your people Israel exiled in Babylon. We accept that word for ourselves. Thank Thee, Lord, that You are not only a transcendent God; You are imminent. You are in touch with the world You created. You are the Lord of history and the Ruler of the nations. Rule in our Nation, in our hearts and homes. Work Your perfect plan, in spite of us if necessary.

"Thy kingdom come, Thy will be done on earth as it is in Heaven." In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the order, 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 PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders today, there will be a period for morning business until 10:30 a.m., under the control of Senator GORE, for the purpose of statements on the subject of global warming. Following the global warming statements, there will be an additional period for morning business, not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each. At 11 this morning the Senate will resume consideration of S. 1970, the omnibus crime bill. Between the hours of 12:30 p.m. and 2:15 p.m. today, the Senate will stand in recess to accommodate the respective party conference luncheons.

Consideration of S. 1970 will resume at 2:15 p.m., and it is anticipated that rollcall votes will occur during today's session relative to this measure.

CHINESE LEADERSHIP INTERVIEW

Mr. MITCHELL. Mr. President, last Friday I said President Bush should not renew most-favored-nation trading status for China at this time. I made that case based on the dismal record of the Chinese Government with respect to human rights.

In an interview aired on Friday evening, the General Secretary of the Communist Party in China inadvertently made the same case himself. The Secretary characterized Western reaction to the massacre of defenseless people in Beijing last summer as, and I quote him, "much ado about nothing."

He did not mean to strengthen the argument in this country against renewing most-favored-nation trading status with his country, but that seems to me the only decent response to his words. The Secretary said he does not "have any regret about the way in which we dealt with the events which took place last year in Beijing." No regrets.

It is evident that the Secretary is not alone. None of the Chinese leadership has expressed any regret about calling out tanks against unarmed people. The challenge to us as Members of the U.S. Senate is whether we will endorse that cynical view or reject it. Will we endorse that profoundly mistaken view of America or will we reject it, and emphasize that, for Americans, concerns about human freedom, justice, and human rights lie at the very core of our Nation and ourselves?

I urge my colleagues to give serious thought to this issue. The Secretary characterized the American reaction to the Tiananmen massacre as "some kind of misunderstanding, lack of understanding."

Did the Senators misunderstand what happened at Tiananmen Square? Is that what occurred last year? Will we endorse this Chinese Communist misstatement of our views? Should we, by now giving the Chinese Government what it wants, tacitly adopt the Chinese Government's casual dismissal of our concerns?

I say we should not. We should not because it is contrary to our principles, contrary to American interests, and wrong.

How can any leader call the cold blooded murder of nonviolent noncriminal citizens of his nation "much ado about nothing?" How can any leader reflect on the sight of armored tanks crushing defenseless people and conclude that foreign reaction to such a crime is exaggerated?

The leaders who decided that their own hold on power, their own privileges were worth a few hundred young lives deserve some response from the world community, especially from the United States. Our Nation's future lies with the people of China, not the cynical leaders who think they can paper over an outrage, a massacre of their own citizens, with words.

It is for that reason that I urge President Bush to reconsider his mistaken and failed policy toward China. By its actions, the Bush administration is sowing the seeds of disaster with respect to the next generation of leaders in China.

If there is one thing we Americans should know, it is that all governments, good and bad alike, eventually pass from the scene. What endures are the fundamental values of the society. Like other despots before them, the Chinese Government of today will pass from the scene in time. The question and the challenge for the Senate is whether we will continue to support a regime which caused the deaths of many of their own people, and call it "much ado about nothing."

Does the U.S. Senate agree that the massacre at Tiananmen Square was much ado about nothing? We will soon find out.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Without objection, the remainder of the time for the two leaders will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the order there will be a period for the transaction of morning business until the hour of 11 o'clock with the Senator from Tennessee [Mr. GORE] controlling the first hour.

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

THE MAJORITY LEADER'S SPEECH ON CHINA

Mr. GORE. Mr. President, in response to the very eloquent statement just made by the majority leader, I agree with the sentiments he has expressed. I wish to recount a brief anecdote related to me by a friend from Jackson, TN, a businessman who happens to be a Republican and happened to be visiting in Beijing at the time of the massacre.

At midnight, before the massacre, he was in Tiananmen Square, taking photographs, visiting with the young students there. He took photographs of the statue the young students called the "Goddess of Democracy" which so strikingly resembled the Statue of Liberty in New York harbor. He pointed, in his photograph, to something I had not noticed before. There were loudspeakers around the base of that statue. He said, "Senator, you will never believe what they were playing over those loudspeakers at midnight, in English." It was the old hymn "A mighty fortress is our God, a bulwark never failing."

He said that he and his friends standing there in Tiananmen Square were amazed to hear those familiar words coming across the square; and those sounds, mixed with the sight of the inspiring statue and the enthusiasm for democracy so evident in the faces and demeanor of the young men and women in Tiananmen Square, together, produced emotions inside my friend that, he said, are absolutely unforgetable.

Then a few hours later when the massacre began, he was, of course, moved to tears by the tragedy. And I was recalling his words as I listened to the eloquent statement by the majority leader, and I wished to commend the majority leader for his statement and share that anecdote with my colleagues here.

INTERPARLIAMENTARY CONFERENCE ON THE GLOBAL ENVIRONMENT

Mr. GORE. Mr. President, I had originally asked for this time in order to present to the Senate the results of the Interparliamentary Conference on the Global Environment. Six of my colleagues from both sides of the aisle joined in organizing and hosting this conference.

We met last week to review the final recommendations of the conference and decided to come to the floor at a convenient time this week to present those recommendations. But after this time was scheduled, several committees scheduled markups this morning. It became inconvenient for several of the Senators who are members of the host delegation to participate this morning. As a result, we will choose another time convenient for the leaders and for the Senate to present our findings and recommendations in detail.

I would like to briefly preview that presentation, and then I would like to use the remainder of the time I will take this morning to discuss some legislation entitled the Ozone Protection Funding Act of 1990, which I will be introducing today.

First of all, Mr. President, I wish to thank the distinguished Presiding Officer, the President pro tempore of the Senate, for delivering the official welcome at the interparliamentary conference. When parliamentarians from 42 nations gathered here, including the counterparts of the President pro tempore of the Senate from 6 of those nations, we had quite a gathering and quite a dialog resulting in a set of consensus recommendations in seven areas: Global warming, the protection of the stratospheric ozone layer, deforestation and desertification, population policy, the oceans and estuaries of the Earth, the problem of sustainable development, and the protection of living species against the loss of what is called biodiversity.

It marked the first time that nations in what we refer to as the Third World or the underdeveloped world signed on to recommendations to lower the emissions of greenhouse gases in the atmosphere. Indeed, we were able to agree—parliamentarians from all nations—on a rather ambitious goal of a 50-percent reduction in greenhouse gas emissions by the year 2010. Not all of that, of course, is from CO_2. Only 20 percent in the illustrative set of reductions that we discussed would be from CO_2. Much of the rest would be from chlorofluorocarbons, which I am going to discuss in more detail in a moment, and from methane and the other greenhouse gases which are not quite as well-known as CO_2 as the cause of the problem.

In any event, on a later occasion, I will present, along with my colleagues who participated in cohosting this conference, the full recommendations from the conference.

The PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. GORE. I thank the Chair.

(The remarks of Mr. GORE pertaining to the introduction of S. 2666 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORE. Thank you, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KOHL). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ROMANIA'S ELECTION

Mr. LIEBERMAN. Mr. President, I returned May 21 from a remarkable experience in which I served as coleader of an international delegation of observers to the elections that were held on Sunday, May 20. This delegation, though composed of people from 19 countries, was actually sponsored by the Democratic Institute for International Affairs and the Republican Institute for International Affairs of the United States of America, funded primarily with grants from the National Endowment for Democracy.

Mr. President, I wanted to take this opportunity to briefly report to my colleagues on the events leading up to and surrounding this historic election that occurred in Romania this past Sunday.

May I say first, so far as the Congress and the two major American political parties which made this delegation possible, in my opinion, it was an act of service. We were welcomed warmly by all Romanians whom we saw, and not only governmental and election officials. People who were on the streets or waiting to vote were surprisingly familiar with the presence of international observers and were grateful for that presence. They said to us quite explicitly that they thought our presence would make the prospects of a truly free and fair election more likely.

Clearly, the presence of a 60-person delegation from 19 countries was an expression of enthusiasm from outside of Romania for the revolution that occurred in December of last year.

Mr. President, people have asked and will ask, do I think the elections were free and fair or were they fraudulent. My answer is that the truth lies somewhere in between. The elections were not totally free and fair as we in Western democracies would define the terms of freedom and fairness. There was some fraud. But in my opinion, the fraud was not sufficient to affect the outcome of the election.

I think in making these comments we have to appreciate the context in which these elections occurred. In fact, it was a miracle that on Sunday, May 20, elections of any kind occurred in Romania when one considers the history of that country.

For me, the two most powerful impressions of this trip were the yearning for and excitement about democracy that I felt. I had an even greater sense, after talking to people and seeing the country, of how truly horrible and insane were the years of the Ceausescu dictatorship.

I think we saw in Romania what happens when governmental power, is totally unchecked. What you have is rule by the whim of an individual, unchecked by anyone.

The relics of this despotism are still there to be seen. They are there to be seen physically in an orphanage that I visited loaded with children, unwanted children, children whose parents could not care for them as a result of the policy by Ceausescu to increase the population of Romania by denying the Romanians, not only the right to legal abortion, but the right to legal birth control. You can see it in the extraordinary wasteful construction of a palace, literally a 1,000-room palace, about 80 or 90 percent finished, at a cost of billions of dollars, while the people of his country, during this decade, were sinking further and further into despair. In fact, they have the lowest standard of living in Europe today.

You can see it in the apartments that he decided to build along the road from the international airport in Bucharest, which in many ways is like a Hollywood movie front. He wanted visitors to not see the traditional Romanian village homes but something modern. There are apartments built so quickly that they have no running water and the plumbing is outside of them.

You can see it in the enormous environmental degradation that has occurred with no regard for the impact of their actions on the quality of their air, their water, or their health. You can in another sense feel it in the fear that still exists. After all, this is only 5 months after Ceausescu was overthrown and executed, after 25 years of ruling over a state-controlled, security police-controlled environment.

Mr. President, in that context, the very fact that elections occurred, as I have said, was a miracle, and perhaps that context explains why the elections which occurred were not perfect. Unfortunately, in the months after the revolution, some of those who were most centrally involved in the revolution have become disaffected. The students, who were a critical component in the revolution in Bucharest in 1989, are now protesting in University Square in Bucharest. The Hungarian population, an abused minority under Ceausescu, which viewed the coming of the revolution with hope now is disaffected from the ruling party. So, unfortunately, some of the revolutionary groups have become disenchanted. But still a campaign occurred, political parties were formed, and an election was held.

People have asked if the election was fair; did he really win it. I would say that there was fraud by some who supported Iliescu. Nonetheless, he is, in fact, a very popular man and, in part, he is a popular man because he is charismatic. He was anti-Ceausescu, and he has used his incumbency very well.

I think it is important for the American people to understand that as they react to this election. In the 5 months since he took office after the revolution, President Iliescu has, for instance, told the miners that they no longer have to work 7 days a week in the mines but can work 5 days. He said to the peasants, who have not owned any land, you can now own this small piece of land and enjoy profits from the produce that you develop on that land. He has said to retirees, I will raise your pensions. In fact, he has raised their pensions. He has effectively only raised them from $20 a month to $30 a month, but that is 50 percent. I can hear the response of the elderly if the President raised Social Security by 50 percent.

President Iliescu has taken food and consumer goods, which Ceausescu was exporting as a way of trying to eliminate the foreign debt of Romania, and put them back on the shelves where the Romanian people for the first time in years have had the opportunity to at least buy them. So he has enjoyed some popularity.

Is there political freedom? There is freedom of speech, certainly. There is a form of freedom of press. Perhaps the way in which freedom of the press is exercised explains how far Romania has yet to go. Before the revolution, there were 60 newspapers in the country and they were all controlled by Ceausescu and the Government security police. Today there are more than 1,000 newspapers, but in Romania there is really only one significant publishing house. It is controlled by the Government, as it was before, so that all of the opposition newspapers have to go to the Government publishing house to be printed, and that naturally led to accusations by the opposition parties and opposition papers that they were not being allowed to print enough newspapers, that the newspaper circulation system, which also is controlled by the Government, was not fairly distributing their newspapers.

So that while there is freedom of press, it is not freedom of press as we know it.

There are allegations by the opposition party that there were acts of harassment and violence against two of the Presidential candidates and several of the campaign workers.

We could not conclude in our observer delegation that, as has been suggested by the opposition parties, the Government controlled party, the National Salvation Front, was directly responsible for those acts of violence. But we did conclude that President Iliescu and those around him spent too much time explaining those acts of violence as natural occurrences in the first election after dictatorship, and not enough time condemning those acts of violence. In other words, they did not contribute adequately to the kind of environment that would have discouraged the intimidation that occurred.

The most significant, and I thought most fervent complaints that we heard, were about what happened in the preelection period leading up to election day. I concluded that there was not equal access and equal opportunity for all the candidates. Clearly, the National Salvation Front, the incumbent candidate, Iliescu, had an enormous opportunity to get his message out. In fact, there were whole sections of Romania where the revolution really has not come, where the local officials who controlled under Ceausescu remain in control today, where the opposition parties did not have the personnel nor the courage in some cases to actually enter the election.

It was the natural inclination of those who were in power, I think, to continue to favor the establishment, and Mr. Iliescu in that sense was the closest thing to an establishment candidate. In many ways, his victory can be seen as an expression by the people of Romania for stability. They are grateful for Ceausescu's end, but uncertain about the future. They wanted someone who would offer them a certain amount of stability.

On election day, there was tremendous enthusiasm, long lines at the polls, people excited about voting, willing to wait to vote, proud of what had happened. And yet, we did note throughout the country a certain amount of what we called fraud, and some of it, the kind of thing that sometimes happens in the United States, happened a lot in Romania on Sunday.

With local officials assisting voters in the voting booths, there was fear naturally arising about whether they were controlling their votes. In some cases, these were exceptions, extreme cases in which we saw actual ballot stuffing.

In another—this may express the desire of a lot of voters here in America sometimes—there was an instance where the voters were standing in line at a polling place and became so angry with the election officials about the delays that they chased them out of the voting headquarters. Then they went ahead and voted themselves for about an hour until the local police came back and restored their position.

But I would say again, by Western standards, there was some fraud on election day, but not enough to have altered the outcome. I think to judge the election we have to judge it as what it was, which was an election that occurred 5 months after a revolution from the most Stalinist despot that ruled in Eastern Europe; also, an interim election, an election that will form a constituent assembly, that must adopt a new constitution within

18 months and then hold new elections thereafter.

I think if observers return in 18 months or 2 years to observe the next round of elections, and find the fraud that we found and the unequal access that we found leading up to this election, they will have a lot more reason to condemn what happens than we did. I think we want to be in the position of criticizing, but also noting the remarkable strides forward that the Romanian Government has made. It seems to me that we have an opportunity within Romania.

I believe we have an opportunity in Romania to do what we are trying to do throughout Eastern Europe, which is to support the forces of democracy as a way to reduce the security threat to ourselves and to our allies in Western Europe.

We have an opportunity to support the development of market economies in these Eastern European countries, including Romania, as a source of trade and business for America itself. I think all of those factors are relevant as we approach the situation in Romania. Its economy is probably behind those of Hungary, Czechoslovakia, and Poland. Its political system is behind those countries. Yet there is an extraordinary opportunity for the principles of democracy and for American business, as well.

I conclude, based on what we have seen, that not enough has occurred in Romania to justify enormous aid or permanent extension of most-favored-nation status. But enough has occurred to offer targeted aid, certainly humanitarian aid for those babies in the orphanages throughout the country; and also the kind of training and entrepreneurship and the development of the market economy that we need; and particularly the extension of most-favored-nation status, but only for a year. Successive years would be conditional on the movement forward of democracy; the implementation of a truly free press; the opportunity for the political opposition to have equal opportunity to get their message across and get organized; and the development of a market economy.

Mr. President, I think that with that kind of support and pressure from the world, the newly elected leadership of Romania will have the opportunity to give to the people of Romania the freedom and improved standard of living that they have for so long desired and deeply deserve.

Mr. President, I thank my colleagues for giving me this time.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 10 minutes, and I also ask unanimous consent to speak beyond that if no other Member seeks recognition.

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

IN SUPPORT OF THE VIOLENT CRIME CONTROL AND CRIMINAL PROCEDURES REFORM ACT

Mr. GRASSLEY. Mr. President, as a cosponsor of the Violent Crime Control and Criminal Procedures Reform Act, I rise to strongly support its passage and to urge my colleagues to do the same.

Authored by my distinguished colleague and ranking member of the Judiciary Committee, Senator THURMOND, this substitute is the one, true, meaningful, and only real crime control bill the Senate has before it at this time.

Our debate today is really about how our society is to maintain both its freedom and its civility.

Mr. President, we cherish our freedoms, both as individuals, and as a nation.

Fighting out from under the yoke of an imperial power, this young colonial nation has grown to be the world's bulwark insuring domestic tranquility, promoting the general welfare, and securing the blessings of liberty for over 200 years.

Today, we all are heartened by the peoples of Eastern and central Europe who are emerging from a half century of devastating conflict and the stifling oppression of authoritarian occupation.

Longing for the freedoms we take for granted, the peoples of Eastern and central Europe have looked to the United States and our Founding Fathers as their guide and inspiration.

I trust the fruits of their efforts will meet their aspirations; and of course some of the legislation we are debating on crime reform has something to do with this.

Mr. President, the freedoms we enjoy are not limited to being protected from an oppressive form of government.

Among its many guarantees, the Constitution guarantees that Americans will enjoy the freedoms of domestic tranquility and the protection afforded the general welfare.

It is idealistic to believe that domestic tranquility includes a reasonable expectation that people will respect each others privacy, or that people will be civil to one another, or that people will just plain "leave each other alone."

However, I believe the threshold of the guarantee of domestic tranquility does at least include the right to be free from being a victim of violent criminal activity.

As elected officials, we take an oath to uphold the Constitution, which is our supreme law of the land. Consequently, the welfare of the people must always be our supreme law. The constitutional mandates, and the very survival of our society, depend upon a host of resources. Foremost among these resources are law enforcement organizations at every level, of course, operating in a professional manner.

These organizations, in turn, depend upon sufficient training, tools, and resources, including laws that can be equally enforced, to fulfill their pledge to protect the public safety.

The Violent Crime Control and Criminal Procedures Reform Act is a direct, forceful, and responsible package that will provide law enforcement personnel at every level with overdue statutory resources.

The Department of Justice has written that the adoption of the Violent Crime Control Act "would be a fundamental contribution both toward enhancing the public's security against crime and improving the effectiveness of the Federal criminal justice system."

I believe this bill will help us to fulfill our constitutional obligation to protect the rights of the citizens of this great Nation, to guard their freedoms, and to ensure their domestic tranquillity, by protecting them from those who have no regard for the law at all.

I believe that this is the least we can do for those who are on the front line of the fight against crime and those who lay their lives on the line every day against the thugs who trample upon the peace and tranquillity of what should be a law-abiding society.

The Thurmond substitute contains several key provisions:

Title I restores a fair and enforceable Federal death penalty for crimes of murder, treason, and espionage.

Title II curbs the abuse of Federal habeas corpus civil procedures that have caused a backlog in the Federal courts and that have hampered the implementation of valid State criminal sentences, including valid State death penalties.

Title II provides that State adjudications will receive deference in the Federal proceedings. It also places reasonable time limits on State prisoners to make habeas corpus applications to the Federal system.

Title III creates a general good faith exception to the judge-made exclusionary rule for cases in which Federal law enforcement officers acted in an objective and reasonable, or let me say good faith, belief that their conduct was consistent with the Constitution's fourth amendment guarantee against unreasonable searches and seizures.

Title IV of the Thurmond bill enhances penalties for serious firearms offenses.

Finally, title V requires drug testing for Federal offenders on postconviction release, including probation, parole, and postimprisonment supervised release.

The death penalty provision in the Thurmond substitute restores an effective, fair, workable, and constitutional Federal death penalty for the following crimes: Treason; espionage; murder; certain crimes involving explosives; the destroying of trains; mailing injurious articles; air piracy in which death results; certain attempts to kill the President; murder by a Federal prisoner serving a life term; hostage-taking results in death; murder for hire; murder in the aid of racketeering; and, of course, a most important decision that Congress made last year, the crime of genocide.

In contrast, the death penalty provisions offered by the Senator from Delaware in his legislative proposal will effectively abolish not only the Federal death penalty, but also the death penalty in those States that presently have a death penalty statute.

Mr. President, by an overwhelming majority, the American public supports the imposition of capital punishment. The American people are usually out in front of politicians on issues like this, issues that matter most, issues of basic fairness, equality, and true justice.

As for the ultimate criminal sanction, which, of course, is the death penalty, the American people are not out to fill some psychological blood lust. However, they do know that when it comes to heinous, outrageous, and abominable criminal acts, the death penalty is necessary, appropriate, and in these circumstances, the only just punishment. To attach a lesser sanction against such criminal acts would, in my view, undermine our system of justice and its ability to deter crime.

Worse, the lack of the capital sentencing option, which would be the result if the provision of the Senator from Delaware is adopted, is an abdication of one of the most fundamental duties of our Government: The protection of the people.

To advocate the use of society's ultimate criminal sanction is not something that I take lightly. But the Constitution permits us the option to end a convicted criminal's life if certain prescribed procedures are followed, including appropriate, as well as constitutional, due process procedural safeguards, to ensure that mitigating and aggravating factors are taken into account during the sentencing portion of a criminal proceeding. And, as a matter of criminal law policy, in addition to much thought and study on my part, I believe that the capital punishment provision in the Thurmond substitute should be a sentencing option available for those who are convicted of crimes deemed to be affronts to civilized society.

The exclusionary rule provision of the Thurmond substitute allows reliable physical evidence, including, but not limited to, such evidence as narcotics seized from a drug trafficker, to be admitted into evidence in a criminal trial.

As is well known by now, the exclusionary rule is not a guarantee grounded in the Constitution.

It is a judge-made rule adopted by the Supreme Court for use in the Federal courts in 1914 (See *Weeks* v. *United States*, 232 U.S. 383) and for the States by the Supreme Court in 1961 (See *Mapp* v. *Ohio*, 367 U.S. 643)—to deter abusive law enforcement practices that might occur under the "color" of the protections afforded by the fourth amendment.

The fourth amendment, of course, guarantees that the people shall be "secure in their persons, houses, papers, and effects, against unreasonable searches and seizures."

Consequently, the enforcement of the exclusionary rule excludes evidence from being considered at a criminal trial, where it has been determined that such evidence has been obtained illegally.

The overtechnical reliance upon the exclusionary rule has resulted in criminals—who have, in fact, been caught in the act of committing a crime—being set free; not because they are innocent, but because the evidence necessary to establish guilt is determined by the court to have been seized unreasonably.

I have already stated that it is the foremost responsibility of law enforcement officers to protect the citizenry. Sometimes in the performance of those duties, an officer makes a mistake.

There should be room to distinguish between a wholly unreasonable search of one's person or home, and the simple and honest mistake, made in good faith, of a law enforcement officer conducting a search under sometimes life-threatening circumstances.

To me that is just plain good old common sense.

Unfortunately, strict enforcement of the exclusionary rule results in all criminals and all crimes being treated alike.

In Michigan versus Tucker (1974), Justice Rehnquist said:

> Just as the law does not require that a defendant receive a perfect trial, only a fair one, it cannot realistically require that policemen investigating serious crimes make no errors whatsoever.

Ten years later, the Supreme Court, in United States versus Leon (1984), adopted a good faith exception to the exclusionary rule, in instances where a search was conducted pursuant to a warrant, issued by a magistrate, that was later invalidated.

The Supreme Court recognized that it is absurd to attempt to deter the conduct of a police officer who in good faith conducts a search pursuant to a warrant that the officer considers to be valid, or who has no reason to believe is invalid.

Can we really expect, as some courts seem to demand, that an officer should cross-examine the issuing judicial officer as to possible deficiencies in the warrant? I believe not.

And what about instances when an officer is acting under probable cause and reasonable good faith, without the benefit of a search warrant?

Should evidence that tends to prove the guilt or nonguilt of an individul be excluded because of an artificial reliance upon a rule which erects an artificial veil between the facts and common sense? I think not.

I think the American people have waited long enough for us to restore logic to the criminal justice system.

In keeping with the spirit of the rationale in Leon, title III of the Thurmond substitute requires that evidence be seized by a responsible law enforcement officer who has acted with an objectively reasonable good faith belief that his or her conduct was lawful.

As I have stated previously, the American people have a right to be secure in their dwellings, free from drug traffickers and similar predators.

The American people also have the right to prosecute those who would flagrantly disregard the laws of the United States and hide behind an overly legalistic reading of the fourth amendment of the U.S. Constitution.

By adopting the objective good faith exception to the exclusionary rule, no longer will a guilty defendant get a free ticket out of jail, for certainly no thoughtful reading of the fourth amendment, nor the judge-made exclusionary rule, ever intended such a result.

Mr. President, none of us wants the police breaking in our doors or indiscriminately making searches and seizures.

Certainly none of the supporters of this provision of the Thurmond substitute advocates such police-state tactics.

However, strict adherence to the exclusionary rule makes sense only in those instances where law enforcement personnel intended to break the law.

Title III does not abolish the exclusionary rule. It does, however, maximize the availability of reliable, physical evidence that may tend to prove the guilt or nonguilt of a defendant.

The exception to the exclusionary rule contained in title III of the Thurmond substitute is valid only so long as the law enforcement officer has acted in good faith and concludes that a particular set of facts and circumstances gives rise to probable cause.

The validity of the good faith of the law enforcement officer in question is to be determined by the finder of fact from an objective rather than subjective standpoint.

I believe that title III is essential in order to return the exclusionary rule to its original purpose of deterring unlawful police conduct.

Statistics indicate that drug cases have a high incidence of exclusionary rule search and seizure problems. With the adoption of title III, no longer will evidence, such as that which is seized from a drug trafficker or drug abuser, be thrown out of court when a law enforcement officer has acted objectively, in good faith, evidence that otherwise goes to the question of a defendant's guilt or nonguilt.

In conclusion, Mr. President, the Thurmond substitute offers us a real opportunity to enact a true crime package, rather than the hollow bill offered by the supporters of S. 1970, which is a crime bill in name only.

Mr. President, I am afraid that the bill offered by our colleague from Delaware does not pass the famous duck test.

True, it looks like a duck, it walks like a duck, and it even sounds like a duck.

But, let me assure you, it is not such a bird. It is only a turkey wearing duck's feathers.

The result of its passage will be to make it even more difficult for law enforcement personnel, prosecutors, and judges to protect the American people from criminals.

I know many of my constitutuents are sick and tired of efforts in Congress to act tough on crime, but not to in fact be tough. They want and deserve meaningful action from us.

So I urge my colleagues to support the substitute offered by the distinguished ranking member of the Judiciary Committee because this substitute happens to be the right thing to do.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. SPECTER. Mr. President, I have been asked by a representative of the leadership to ask unanimous consent that time for morning business be extended to 12 noon.

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

CRIME

Mr. SPECTER. Mr. President, we are considering the crime bill in the Senate today, a continuation from the opening discussion of yesterday. There is no problem or concern in America more important than crime. The primary function of government is to provide personal physical safety for its citizens, national defense on international problems, and domestic defense against the ravages of crime.

The crime problem is a matter of overwhelming importance in this country, as it has been for a long time. In the three decades that I have worked on the crime problem since I was an assistant district attorney in Philadelphia in 1959, I have personally seen the problems of crime in the streets, crime in our big cities, crime in our small towns, and crime in rural areas, grow by leaps and bounds.

It has always been my view that we could win the war on crime if we could devote sufficient resources to this very important issue. There have been many crime commissions. The one I worked on was the 1972 National Commission on Criminal Justice Standards and Goals which outlined a realistic blueprint to deal with crime in America.

Crime in the United States has become more acute with the advent of the drug problem. With the problems of cocaine and crack, crime has become a much more difficult problem today than it was 18 years ago when the National Commission on Criminal Justice Standards and Goals outlined the strategy to fight against crime.

Since coming to the Senate, the crime issue has been a major area of my concern, working on the Judiciary Committee and also on the Appropriations Committee. In the 98th, 99th, 100th, and 101st Congress, I have proposed major legislation which would allocate 1 percent of the Federal budget to the crime problem. Originally, when our budget was around $850 billion, that called for an allocation of about $8.5 million. At the present time, largely as a result with the problems with drugs, the Federal allocation has approximately come close to that 1 percent figure. But in the intervening time, the problem has become even more complex so that there remains an issue today as to whether 1 percent of our Federal budget is sufficient.

Mr. President, I would approach and have approached the problem of crime in two fundamental ways. One is to deal with the first offender, second offender, and youthful offenders working toward realistic rehabilitation. And, second, if a person then becomes a habitual offender—and by that I mean someone who has been committed three or more major crimes—then I think it is fair to, in effect, throw the book at that defendant with life sentences, to separate that person from society. But before that can be done, in my view, there has to be an opportunity for the youthful offender, first offender, even second offender to have realistic rehabilitation.

It is no surprise when a functional illiterate leaves jail without a trade or skill that that individual returns to a life of crime. It is no surprise that when a person cannot read or write, has no job, goes back on the street, and if not the first impulse, if not the second impulse, it does not take long for recidivism to take hold. That has been the result of the problems of crime in this country. We have not really worked at rehabilitation in any meaningful way.

When I served as chairman of the District of Columbia subcommittee in 1983, 1984, 1985, and 1986, our subcommittee crafted a program for the District of Columbia to provide for literacy training, to provide for job training, to provide for job placement. While that program has had some difficulties, it has made significant strides forward and has been significantly successful with demonstrated statistical facts showing that where education, literacy and job training has been provided, the people who have left the District of Columbia jails have had a higher rate of success on the outside in finding and in holding jobs.

Part of that program was the effort to construct a new jail in the District of Columbia and some $30 million, $40 million of Federal funds were allocated. As a demonstration of how slow the process is, in 1990, we still have not made a great deal of progress on the jail because of citizen disputes, but it is going forward. It is illustrative.

I know the distinguished Presiding Officer smiles. It is a pleasure to have his attention because most of the time with a single Senator on the floor in this cavern making speeches which are largely unnoted perhaps except for somebody watching on C-SPAN II. The fact is that the jail is moving forward under that initiative. If it is hard to get a jail constructed, which is a relatively simple task, consider how much more difficult it is to apply rehabilitation to work with functional illiterates who have come out of the school system not knowing how to read and write and have turned to a

life of crime. Take that person when they are 20, 21, or 27 trying to give them literacy training and then try to give them job training and try to find them jobs. There is a realistic hope of accomplishing that and the experience in the District of Columbia, while not perfect and very problemsome for a lot of reasons, has made some significant strides forward.

Mr. President, I believe that it is necessary as a plank for America to work on the juvenile offender, the first offender and the second offender to try to provide that kind of realistic rehabilitation.

I have introduced legislation which would encourage the States to emphasize such realistic rehabilitation. I intend to offer on this bill, Mr. President, a measure which would stimulate some State action. As a matter of federalism, the Congress cannot appropriately order the States to have rehabilitation programs, but we can condition our grant of Federal funds, for example, on the States moving in that direction. As I say, I have introduced legislation in the past and I intend to offer an amendment on that subject when the time is appropriate on this bill.

Mr. President, if society offers the first offender, juvenile offender, even second offender, a chance at realistic rehabilitation and that individual then fails and becomes a three-time loser, then I think it is fair to have life sentences, to separate that person from society.

Some 40 States in the United States have adopted this approach over the years called the habitual offender statute. States have provided if someone does commit three or four major offenses, that person then is classified as an habitual offender and ought to go to jail for life. That was the thrust of legislation which I introduced in 1981 and kept with, and finally, in 1984 we passed as part of the Omnibus Crime Control Act.

The Federal Armed Criminal Sentencing Act which provides for a life sentence under the Federal system, entitles a person to probation after serving 15 years. However, the act provides for a mandatory sentence of 15 years to life for someone who is caught in the possession of a firearm who had committed three major offenses. That is the Federal equivalent of what had been in so many of the States under the habitual offender laws.

The problem then, Mr. President, becomes one of having sufficient space for incarceration. Based on my experience as district attorney of Philadelphia and as a result of hearings which we have had in the Judiciary Committee, it is my judgment that there are approximately 200,000 to 400,000 career criminals in this country. That was an estimate which this Senator advanced in the early 1980's. There may be more by this time as a result of the increased problem of narcotics.

The job is to have enough jails to hold those prisoners. A career criminal, Mr. President, is someone who commits a major robbery or a major burglary. The statistics show and case studies show that these career criminals commit in the range of 700 crimes a year.

This Senator has proposed legislation, as I say, as part of the major package going back to the early eighties to provide $10 billion for the construction of jail cells in this country which would house these prisoners.

Finally, after a great deal of effort, there has been a focus of attention in this country on additional jail cells. President Bush has come forward with a very significant sum of money for this prison construction. This is an issue which was part of the campaign effort, campaign effort which involved the furlough issue, and involved Willie Horton, but also a more comprehensive plank in then Vice President Bush's campaign effort which included this prison construction. This Senator made a contribution to the formulation of that plan. That has been carried forward so that we now are moving to have jails.

I believe, Mr. President, the Federal Government ought to take a greater role in providing prison space for the category of habitual offenders for a number of reasons. First, when you have someone who is an habitual offender, they are moving in interstate commerce, and most of the time involved in drugs, it would be appropriate for the Federal Government to house these habitual offenders because of the Federal nexus to the problem. In addition, it would be appropriate as a way of encouraging, in the State courts, the use of the habitual offender statute.

In the 97th, 98th, 99th, and 100th Congresses that legislation has been proposed by this Senator. So it is a long evolving process, but I believe that ultimately there will be a greater recognition by the Federal Government of this role.

I am glad to see the distinguished chairman of the Judiciary Committee have as part of his plan regional Federal jails to help the States. That proposal does not tie directly to habitual offenders, but it is in line with the basic concept that the Federal Government does have a responsibility and a role in housing State convicts.

We know today that there is a horrendous problem of overcrowding in the State prisons, and there have been thousands of prisoners released prematurely. In one celebrated case in Little Rock, AR, where a person was convicted of murder in the first degree on a robbery-felony murder, was sentenced to 25 years in jail, which in Arkansas is the practical equivalent of life, he walked out of court and walked out onto the street because there was no jail to put him in.

Judges have testified before the District of Columbia Subcommittee in 1984 and 1985 that they frequently release people who ought to go to jail because there is insufficient space. That is a problem which we have not yet begun to grapple with.

So it is no surprise that there are violent criminals on the street when we have apprehended, convicted, and sentenced them, but they are not in jail because there is insufficient jail space. So it is no wonder that those people are back on the street and committing more crimes, and it is proof positive to the basic proposition that we have not allocated sufficient resources for this very important problem.

In the bill before the Congress at the present time, Mr. President, there is a great deal of concern on the issue of the death penalty. I believe that the death penalty is a deterrent. That judgment is based upon some 12 years of experience as an assistant district attorney and as a district attorney, and from the experience I have had in the 10 years I have been in the Senate on the Judiciary Commitee. It is a judgment call.

Frankly, the statistics go either way. As in most circumstances, you can find a statistical set to prove virtually anything you seek to prove. But I have seen professional robbers and burglars who will not carry weapons in the course of a robbery or burglary because they do not want to face the death penalty. When we come to the subject in further debate I will amplify those cases and the underlying factors which led to that conclusion.

Whether or not I am accurate that it is a deterrent, there is no question about the fact that 37 States have decided the death penalty is something they want carried out. The practical fact of the matter is with the lengthy delays on habeas corpus proceedings—that is the Latin term, habeas corpus, "produce the body"—where the propriety of the conviction is tested in the Federal courts and in the State courts. In these cases, proceedings can go on for years, an average of 7 years, and some cases last as long as 15 years. In fact, one case lasted as long as 17 years.

Mr. President, it is my view that the death penalty has to be very, very carefully applied, both as a matter of justice to the individual who is being subjected to that possible penalty and also in order to be able to retain the death penalty.

When the issue as to age comes up in our Judiciary Committee meetings, I have long voted that we ought not to apply the death penalty to anyone

under 18 years of age. It is not an easy call. A number of my colleagues have called for the death penalty for those who are 17 or 16, wanting to put the cutoff at age 16. There is no magic test as to what the appropriate age is. There are many juveniles who are 16 and 17 or even younger who are hardened criminals, and when you take a look at their records and their conduct there is a strong inclination to say the death penalty ought to be applied here. But as a judgmental factor and as an overview, I think that society ought not to extract the death penalty from those who are under 18 years of age, both as a matter of the age of the individual and also as a matter of societal restraint that we are to be able to retain the death penalty.

So I disagree with the decision of the Supreme Court of the United States which upheld the death penalty as a matter of State determination for those under 18, although it is a different question as to whether there ought to be a constitutional bar contrasted with a public policy determination made by a legislative body. I believe that a wiser course, as I say, is to limit the death penalty to those 18 years of age or older.

Similarly, when it comes to the issue of those who are mentally retarded, I disagree with the decision of the Supreme Court of the United States in giving States latitude to apply the death penalty to those who are mentally retarded. I believe that these issues ought to be resolved in a conservative way. When I say conservative, I mean that the death penalty ought to be restrictively applied and in close questions we ought to exercise societal restraint, both in fairness to those individuals and also in order for society to retain the death penalty, because I believe that if it is overused we will lose it.

One of the amendments, Mr. President, involves the issue denominated as the Racial Justice Act. When you so denominate a matter as racial justice it is pretty hard to vote against it. It is one of the great attributes that imaginative Senators or more imaginative staffs have of putting labels on bills so they cannot be resisted.

The Racial Justice Act in essence provides for a statistical determination to show that the death penalty has been applied in a racially discriminatory manner. It is a very complex measure. I voted in favor of the provision during the committee deliberations. I have since rethought the matter because of a concern, as I have studied the matter in greater depth, that it may set up a system which is unwieldly and impractical, and it may also move away from individualization for determination of the death penalty. A hallmark of the American criminal justice system and especially on the death penalty has been individualization; that is, taking a very close, hard, careful, very careful look at the individual involved in terms of the murder in question, the aggravating circumstances, the mitigating circumstances, that individual's prior record. I am rethinking and restudying this issue and have had quite a number of meetings on it, studied it in depth, and intend to continue to do so before the matter is called to the floor.

The issue of applying the death penalty to major drug dealers is also a matter of concern where there was no causally connected death. I have introduced legislation which would provide for the death penalty for a major drug dealer, even though you cannot show a specific death resulting. I broached this issue about a year ago with Assistant Attorney General Edward Dennis, the Assistant Attorney General in charge of the Criminal Division, and sought the administration's position which was forthcoming a few weeks later, and then crafted a bill and introduced it last fall.

This is a difficult issue because it raises a possible constitutional question as to whether constitutionally the death penalty may be imposed on an individual where you cannot prove a death results. The Supreme Court of the United States has held that the death penalty may not be applied to someone convicted of rape because the death penalty is disaproportionate. The Supreme Court of the United States has also held that you may not apply the death penalty to a coconspirator who is the driver of the getaway car in a robbery-murder because that individual is too remote.

But I believe where you have major drug dealers selling drugs, they know that the natural and probable consequence of the sale of drugs is to result in death. My bill provides for the imposition of the death penalty on a second conviction for such an individual.

We have had traditionally the death penalty for crimes like espionage or sabotage where no death resulted, because society's interest in national defense and national security was such that if someone was convicted of espionage or sabotage or treason the death penalty was appropriate.

I believe that those are analogs and analogies to a major drug dealer, even though you cannot prove death results. I expect this will be a contested issue on the Senate floor. It is one where I think we ought to expand the death penalty.

I have been disturbed that there has not been an effective Federal death penalty since Furman versus Georgia except for the Uniform Code of Military Justice and the 1988 legislation which we passed on major drug kingpins where death did result.

Last year, I introduced a provision for the death penalty in cases of terrorists, starting off with the most egregious kind of crime where I thought it would be clearest that the death penalty ought to be applied, and I offered that as an amendment to the State Department authorization bill. Under an agreement, we took it off the bill so it could be considered as a freestanding bill with 4 hours of debate. That bill was considered and passed the Senate overwhelmingly by a vote of 79 to 20 on October 26, 1989.

That was step one in trying to bring back the death penalty for a wide variety of traditional Federal offenses—murder, of course, of a Federal agent, robbery of a Federal bank, assassination of a President, use of explosives, a wide variety of cases which had traditionally been covered with the death penalty. Those are incorporated now in legislation advanced on both sides of the aisle. I think it is very important to bring back the Federal death penalty.

Mr. President, I have spoken at some length because no other Senator has appeared on the floor seeking recognition. But even with this length, I am only touching on a few of the matters which will be embodied in the debate on the crime bill, and of which I have a direct concern. But the final matter that I shall discuss is an amendment which I offered on Friday to establish a timetable for Federal habeas corpus proceedings.

The reality is that there is not much of a death penalty in America today, notwithstanding that 37 States have the death penalty. There is not much of a death penalty because, with some 2,400 men and women on death row in America, there have only been about 125 executions since 1976. So that the deterrent effect of capital punishment really cannot be demonstrated in this context.

We know that punishment can deter only if two factors are present: swiftness and certainty. Without those two factors, deterrence cannot be present. Obviously, you do not have swiftness. In some cases it takes as long as 17 years with the average case taking 7 years. And you cannot have certainty in the context where you may not be caught, and if you are caught you may not be convicted. If you are convicted, you may not get the death penalty, and if you get the death penalty, you most likely will not be executed given the statistical range.

In 1972, Furman versus Georgia came down, and everybody on death row was exonerated because their cases were tried in the context in which it was determined constitutionally impermissible by Furman versus Georgia. Then other cases have come down. Each time the death penalty is struck down, all those on death row are granted an automatic reprieve because the Supreme Court of the

United States established standards which were not known when those defendants were tried and convicted.

So that enormous delay, realistically viewed, destroys the efficacy of the death penalty in this country.

Mr. President, I have proposed a significant revision of postconviction proceedings because of my view that it is possible to give those convicted of murder in the first degree and sentenced to death an appropriate review in a much shorter time, providing adequate counsel is appointed.

That is a sine qua non, an indispensable prerequisite for any system which administers criminal justice which includes the death penalty.

My bill, which was introduced on Friday and which I intend to offer as an amendment to this crime package, would call for the filing of a petition for writ of habeas corpus in the Federal court within 30 days after the final decision on direct appeal from the conviction and imposition of the death penalty.

Mr. President, my legislation calls for the elimination of State habeas corpus proceedings as a jurisdictional prerequisite of Federal habeas corpus proceedings because in the State courts those proceedings are customarily pro forma. They go before the same court where the person is tried and sentenced to death. That case has already gone to the State supreme court, which has upheld the trial and the death penalty. The only additional ingredient customarily is the issue of competency of counsel. And as a matter of practice, it is pro forma. Several years are consumed in that process.

The defendant's rights can be adequately protected, providing he gets a decent lawyer, in a single Federal court habeas corpus proceeding. It is possible, Mr. President, to set a timetable which would move that along. We find that it is a common practice in many States for long delays to occur before the warrant of death is signed by the Governor calling for the imposition of the death penalty. That sets a procedural sequence where there is no requirement for the filing of habeas corpus review on constitutional grounds until the break in the imposition of the death penalty.

Then the cases go through collateral habeas corpus proceedings in the State courts for several years. Then there is a repetition in the Federal courts. During this time, there are frequently intervening decisions by the Supreme Court of the United States, expanding within its rights. Then they start all over again with this interminable process.

Mr. President, with provisions for adequate counsel, the defendant is on notice at the time the State supreme court holds that the death penalty matter is going to have to go forward to the Federal habeas corpus proceedings because, while the petition for a writ of certiorari is applied for, it is granted so infrequently that it is a virtual certainty that the case will go to the Federal habeas corpus, and that is the time for the preparations to be made for that Federal habeas corpus proceeding.

That is the time when counsel ought to be preparing that petition for writ of habeas corpus. I think it is timely and fair to require that it be filed within 30 days after the Supreme Court of the United States denies a petition for writ of habeas corpus. If they take the case, of course, there is review. But if the Supreme Court denies the writ of habeas corpus, that is the time for the petition timing to start.

The issues have been litigated, aside from the issue of incompetency of counsel or some intervening factual materials. They have been litigated in the State criminal proceeding.

It is then reasonable, Mr. President, to call for an answer by the State within 20 days, which is customary now, and then to limit the U.S. district court for 3 months for an evidentiary hearing, for arguments, briefing, and decision.

These cases, under my amendment, would be made a priority item for the Federal courts, and it would not be burdensome. In the State of Pennsylvania, Mr. President, we have had, over the past decade, some 120 death cases pending. Seventy of them have come out of Philadelphia and 40 from the remainder of the State. I am advised by the district attorney, Ron Castille, that 12 such cases arise each year. In the Eastern District Court of Pennsylvania, where there are 22 full-time judges and another 8 senior judges, that would be one capital case every 2 years.

I think it is then appropriate to establish a timeframe in the circuit court of 110 days, and that is not much faster than is currently the standard, again taking these cases on a priority basis, and a timetable in the U.S. Supreme Court of 110 days.

This sequence, Mr. President, would eliminate problems which are now present by the intervening rights. The Supreme Court of the United States has held that a person applying for Federal habeas corpus should not be entitled to the benefit of a decision which came down establishing new rights after his case had run its initial appeal. I believe that this rule is not an appropriate one and, of course, the Congress of the United States has the authority to establish the law on this subject, as to what is the scope of review.

I saw Chief Justice Rehnquist describe this point on television, and as he describes it, it could not be applied if there was a fundamental right involved. I suggest, Mr. President, that there would be more time consumed on what was or was not a fundamental right than it would take to decide the entire issue.

Again, in considering whether the defendant ought to have the benefit of the intervening rights, Mr. President, I believe that the benefit of the doubt ought to be given to the defendant, again, on the basic point that I make that capital punishment has to be applied with societal restraint, both in the interest of fairness to the individual and in the interest of retaining capital punishment.

The other major controversy which has arisen on the bills which have been filed, on the controversy between the Powell Commission, the commission chaired by former Chief Justice Lewis Powell, and the point of view of the judicial conference is what the scope of review should be, whether it ought to be limited to the question of innocence or whether it ought to consider also the question of penalty and how that ought to be articulated.

Here again, Mr. President, I believe that the broader standard has to be applied, again in the context of fairness to the individual and retention of the death penalty, and this is under the category of societal restraint. When hearings were held before the Judiciary Committee, this issue was addressed by Justice Powell, and I cite a brief portion of his testimony to this effect. Justice Powell testified:

> A miscarriage of justice, it sort of lies in the eyes of the beholder. I also repeat what I said earlier, that, for the most part, innocence is not an issue in these cases. The question is whether or not a death sentence was appropriate and whether or not the trial was fair.

This is the testimony of former Justice Powell in commenting on what the scope of review should be. So that when you get into the nitty-gritty and into the question-and-answer session, Justice Powell realistically comes down to the broader standard when he says: "The question was whether or not a death sentence was appropriate and whether or not the trial was fair."

So that when we really apply the death penalty and are about to extract the extreme penalty which, as I say, I think is fair, so that society can have every legitimate weapon in its arsenal to fight violent crime, the defendants for whom the death penalty is imposed necessarily ought to have a review of the sentencing process and, as Justice Powell himself puts it, "Whether the trial was fair." No matter how you articulate the term "miscarriage of justice," and a variety of other standards, you come down to what is basic fairness, and I do not think we come to a point in our courts where we will exact the death penalty without having given that ultimate process of review.

Mr. President, I have a number of comments, in the intervening time, on my amendment on speeding up the timetable. Some are concerned that it is a big step to eliminate State habeas corpus proceedings. I think that concern arises in the minds of those who have not been through State habeas corpus proceedings. They just are not meaningful.

One concern was raised about a slight disadvantage to the prosecuting attorneys, because the fact-finding State habeas corpus proceeding is to be handled with deference in the Federal court. But giving up that small advantage is far outweighed on the benefit of eliminating the several years taken up by State habeas corpus proceedings.

When you take a close look at that procedural advantage, Mr. President, it evaporates in most Federal court proceedings, because the Federal courts hold their own evidentiary hearings. If a Federal court wishes to reach and invalidate what a State court has done in cases—and I shall discuss those at greater length when this issue comes to the floor—the Federal courts make those decisions in any event.

I have litigated these cases in State habeas corpus matters and also on Federal habeas corpus matters, and this timetable is workable. There is an approach on the subsequent Federal habeas corpus petitions that they may not be filed unless leave is obtained from a court of appeals, so that the court of appeals should be the gatekeeper to stop the repetitious petitions for writs of habeas corpus.

Mr. President, I see my colleague from Colorado on the floor seeking recognition, so I shall conclude at this point. I urge my colleagues, in the crafting of the bill which is before us, to take a very hard look at the broad aspect of crime in America and to try to deal with the issue of realistic rehabilitation for the youthful offender, the first offender, and the second offender, both in the interest of that individual and also in the interest of society's willingness to extract a life sentence for the habitual offender. I do not think we will come to that judgment, and to impose the life sentence on the habitual offender as a society, until we provide that kind of an opportunity for rehabilitation to the juvenile and the first and second offenders.

As we work through the issue of the death penalty, which is a very important weapon in the arsenal against violent crime, we must structure legislation which will give defendants access to adequate counsel, because if there is not adequate counsel, nothing that we provide would work, and that means access to the records as well. With adequate counsel and with the priority in the Federal courts, we can speed up the lengthy Federal court habeas corpus timetable to a year. I would expect others to want a longer period of time. None of these timetables are nonnegotiable. There is a great deal that we can do in the Congress of the United States, through the Federal Government, if we analyze these problems closely, if we supply sufficient funding, and if we move to realistic solutions. I thank the Chair and yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. WIRTH. Mr. President, I ask unanimous consent that morning business be extended to 12:30 p.m. and Senators be allowed to speak therein.

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

JILL IRELAND, A REMARKABLE WOMAN

Ms. MIKULSKI. Mr. President, I rise today to pay tribute to a remarkable woman. Jill Ireland was a British actress and cancer crusader who spent the last years of her life fighting the debilitating disease of breast cancer but did not let it defeat her. Instead, she fought in public, where her courageous 5-year battle brought hope and inspiration to both the ailing and the healthy. With her death last week we lost a very special advocate for women's health.

In books and frequent lectures about her battle with the disease, Ms. Ireland spoke eloquently about self-respect and optimism in the face of devastating illness. She wrote a best-selling book about fighting her disease entitled "Life Wish." She called herself a survivor, not a victim.

In January 1988 she testified before the Senate Committee on Labor and Human Resources, of which I am a member, representing the American Cancer Society. At this hearing Jill pleaded eloquently for a bill I had introduced to address the critical heatlh issue of early detection of breast cancer through mammography, so that other women would not have to suffer as she had suffered with this terrible disease. As she stated at that hearing:

> If it were not for a mammogram, which detected my cancer before I did, I would not be standing before you today, pleading for the lives of American women. My tumor was not detectable by examination. It took a mammogram to save my life. If all women knew about the benefits of screening, and if it were available to them, so many women could be spared surgery, painful treatment, and death.

Mammography screening can detect breast cancer when it is in its very early stage. At this early stage, the chances for cure are over 90 percent. Yet is is estimated that fewer than 10 percent of women over 65 have mammograms regularly. One primary reason for this is that the cost of a mammogram can be a tremendous burden for an elderly women on a fixed income.

Jill Ireland can no longer stand here and plead for the lives of others; it is up to us to carry on that work for her. I know of no better way to attempt to carry on in her footsteps than to continue to press for measures which enable all women to receive mammography screening and other necessary medical services.

As Jill Ireland stated before my committee:

> Breast cancer is a great leveler. It knows no boundaries. It does not respect income levels, ethnic distinctions or social standing. It strikes the young, people in full stride of their most productive years and it strikes the elderly—many of whom are surviving on a mere $400 a month from Social Security.

Our memorial to this exceptional woman must be to ensure that no woman experiences the devastating effects of breast cancer simply because she could not afford to have a mammogram.

DROPOUT PLANS NOT WORKING

Mr. KOHL. Mr. President, I rise today and ask unanimous consent that the article, "Dropout Plans Not Working, Study Finds," appearing in the New York Times on May 16, be printed in the RECORD. Joseph Berger writes:

> New York City schools spent more than $120 million in the last four years to prevent students from dropping out, but most of the participants did not improve their attendance or their academic work, a major new study says.
>
> The study, which is being released today, underscores again how intractable the dropout problem is and how difficult it is to alter the habits and the outlook of students by starting in adolescence.

New York City schools have taken the initiative to try to find what works in helping to reduce a high dropout rate. The article goes on to discuss approaches that are working and approaches that haven't worked in meeting the needs of the young people of New York City.

On April 30, the Senate unanimously agreed to an amendment which would continue funding for school demonstration dropout prevention programs for 1 year until a new round of competition for demonstration project grants can be completed by the Department of Education. Meanwhile, there will be more examples of projects undertaken by States and local governments—as in the programs described in the article by Mr. Berger—demonstrating both success and failure. But at least the efforts are being made to find what works, and what works best in each of the thou-

sands of communities across this Nation which are facing a tremendous dropout rate.

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

[From the New York Times, May 16, 1990]

DROPOUT PLANS NOT WORKING STUDY FINDS

(By Joseph Berger)

New York City schools spent more than $120 million in the last four years to prevent students from dropping out, but most of the participants did not improve their attendance or their academic work, a major new study says.

The study, which is being released today, underscores again how intractable the dropout problem is and how difficult it is to alter the habits and the outlook of students by starting in adolescence.

Board of Education officials said the findings pointed to a need for making instruction more appealing to students, and not merely intensifying attendance and guidance services, as dropout programs have tried to do.

Former Chancellor Bernard Mecklowitz said the study suggested that dropout prevention had to begin much sooner, perhaps as early as nursery school.

AT A COST OF $8,000 A PUPIL

The study, prepared by the board from research by faculty members at Teachers College of Columbia University, is expected to lead to a major reshaping of the dropout program. Chancellor Joseph A. Fernandez is scheduled to brief the board today on revising the dropout progam, which deals with junior high school and high school students.

From 1985 through 1989, the system, responding to a persistently high dropout rate, showered the 150,000 participants in two parallel dropout programs, with services costing a total of $120 million, or $8,000 a pupil.

Attendance officals, equipped with automatic dialers called parents to prod the students to attend. Guidance counselors advised on careers and family problems. Neighborhood workers visited homes and trained youngsters for jobs. One community group even provided training for wilderness survival.

The results, the authors of the study concluded, were disappointing. About 40 percent of the high school students showed improved attendance. Less than 45 percent increased the number of courses they passed from one year to the next. More than half the original participants had dropped out by the third year of the program, far higher than the citywide average of 30 percent.

Most damning of all, the study suggested was a comparison between students who were in the program for three years. Both groups showed the same decline in attendance. The study did not give specific figures.

Officials of the program had set a goal of improving the attendance and academic achievement of the majority of the participants.

POLITICS AND SPEED

Although dropout figures are notoriously subject to manipulation, the board's figures indicate that almost 30 percent of the students older than 14 dropped out before they might have graduated.

A study in 1988 by a group of black, Hispanic and Indian educators said the rates for minority students had reached epidemic proportions, with 82 percent of Hispanic students, 53 percent of black students and 46 percent of Indians leaving. The board's figures for minorities are far lower.

Many educators said the problem had to be addressed long before high school. Indeed, the best results were achieved at a handful of elementary schools in the programs.

"Taking children who are already at risk and who already have one foot out of the school is worth the effort, but it doesn't pay the kind of dividends that the long-term approach pays," said Mr. Mecklowitz, now head of a principals' training institute at the Bank Street College of Education. "It's easier to prevent someone from smoking if they never start. If you get children on a positive educational track, they're going to continue their education."

The politics surrounding education, he said, often demand quick results. Working on the problem through early programs, he said, could take eight or more years and may not be as politically palatable as quicker programs.

In the mid-80's, the board, responding to criticism, started the two programs at 98 junior high and 36 high schools, as well as 5 elementary schools. The Mayor's office largely paid for one and the state, largely through bills sponsored by the chairmen of the Senate and Assembly Education Committees, paid for the second. The bills were written to assure that most of the money went to the most-troubled urban schools, bypassing the usual formulas that critics said often shortchanged the city in favor of suburban and rural areas.

INSUFFICIENT CREDITS

The programs, which eventually merged, picked students whose attendance and academic records suggested that they were likely to drop out. Both tried similar strategies, with efforts to have students attend, after-school programs and health referrals. Schools enlisted community organizations to develop job training, counseling and other programs.

An evaluation of the programs, by Joseph C. Grannis, a professor of education at Teachers College and supplemented by the board's research, found that participants were not earning sufficient credits each year to enable them to earn a diploma in four, or even five years.

High school students attended about two-thirds of the time and passed 40 percent of their courses. Average attendance declined year after year.

About 25 to 30 percent of the participants, the study said, were regularly promoted. By the third year of the program, 1987-1988, 50.7 percent of the first group of high school students had dropped out.

DECISION ABOUT SCHOOL

The executive director of the division of strategic planning at the board, Robin Willner, cited the focus of the program. In the mid-80's, she said, educators believed that schools needed the guidance counselors and attendance teachers who had been cut back in the fiscal crisis of the 70's. The findings of the dropout study, she said, indicate that such services solve just part of the problem.

"Children need enormous support, but they are also making a decision about school," she said. "The initial program focused on what was wrong with the children and did not sufficiently focus on what was wrong with the school. Children are making a decision about the school.

"If children went back to the same classes and the same program they walked away from the first time, they would walk away again. What about fixing the school, so when you bring them back they want to stay?"

Professor Grannis, who wrote the Teachers College study, declined to comment until the study is released.

JIM HENSON

Mr. LEVIN. Mr. President, yesterday in New York, funeral services were conducted for Jim Henson, the creator of the Muppets, who died suddenly last week.

Jim Henson brought to this Nation and to the world joy and learning as well as the joy of learning through his never ending cast of creations. Whether it was teaching children to count and read, or teaching adults the value of keeping alive the child in themselves, Jim Henson's art and insight enriched the fabric of our culture for over 30 years.

Because his characters were lovable but not beautiful by any classic definition, he was able to teach children that beauty was in an attitude and in an approach to life. He also taught them that just because individuals looked different from each other, there was no reason why they could not work together in a spirit of community. In an environment which could lead children to think that being mean is an ideal, Kermit the Frog showed that it was good to be caring and thoughtful, even if you were sometime awkward in expressing those feelings. Fozzie Bear, through his repeated and usually ill-fated attempts to be a standup comic, showed children that they should not be afraid to try and try again if they really wanted to achieve something. And even Miss Piggy, that supreme example of comic self-indulgence, let children see in a humorous way the downside of thinking only about "moi."

Jim Henson through his loving creativity taught children all of that and at the same time reminded the rest of us of it, as well.

Mr. President, it is an ironic tribute to Jim Henson that it was his very success that deepens our sadness. It was the reality of his fantasy that makes us feel that in his passing we have lost a part of our own world. But, his legacy is that the fantasy will still endure for the benefit of all of our children and for the benefit of the children in all of us.

NATIONAL HEALTH CARE PROPOSAL

Mr. INOUYE. Mr. President, today I am pleased to submit for the record a summary of a national health care proposal developed by the National Association of Social Workers [NASW].

Our health care system is in critical need of fundamental restructuring if we are to provide access to quality health care to the millions of Americans who have no coverage. We all know that health care costs are skyrocketing. Almost 12 percent of our gross national product is spent on health care with expenditures projected to reach 15 percent by the year 2000. Thirty-seven million Americans are uninsured with 50 million more who have inadequate coverage. A shocking 12 million of the uninsured are children, who from infancy are denied the benefits that medical technology has to offer. As alarming as these statistics are, the situation only continues to become more bleak as ever increasing numbers of employers eliminate health coverage or cutback on health benefits. We can no longer pay lipservice to the need for change. The health of our Nation's citizens is on the line.

NASW, representing 127,000 professional social workers nationwide, has taken this challenge seriously. They have developed a far-reaching plan that promotes a single, simplified health program that would be implemented by the States under Federal guidelines, and financed through progressive taxation and an employer-paid payroll tax. Unlike our present two-tiered system, every citizen would have equal access to comprehensive health, mental health and long-term care services. The NASW proposal would permit consumers freedom of choice to select among participating public and private providers.

Social workers practice in virtually every kind of health and mental health care setting. This breadth of experience is reflected in the proposal's emphasis on health education and preventive care, health care delivery that addresses the total needs of the individual, coordinated care to ensure a continuum of services for those with multiple health problems, and the availability of resources that enable access to health services for underserved populations. This is a program that supports access to comprehensive health care but does so within a framework that promotes administrative efficiency and cost-conscious service delivery through a single-payer system, prospective global budgeting for States and hospitals, fee schedules for all practitioners and expenditure targets, an emphasis on community-based outpatient programs rather than costly inpatient programs and health care planning at all levels.

This proposal addresses the need for a national health care system—not just a plan that proposes to increase access while continuing the same inefficient, costly, fragmented health system. This proposal challenges all of us. I believe NASW speaks not only for its own members but for all our citizens who feel that it is time for this country to ensure that everyone has the right and access to quality health care. Mr. President, I ask for unanimous consent that the text of this summary be printed in the RECORD.

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

EXECUTIVE SUMMARY—NASW NATIONAL HEALTH CARE PROPOSAL

The NASW national health care proposal fundamentally restructures the current health care system. The program offers full coverage to high quality, cost-efficient, and equitably-financed health and mental health care to all Americans. The national health plan proposes a single federally-administered, single-payer system with state responsibility to ensure delivery of health services, payment to all providers, and planning in accordance with federal guidelines. The plan provides coverage of comprehensive benefits, including long-term care. Enrollees have the freedom to choose among a full-range of public and private providers, including alternative delivery plans.

The national health care plan is financed primarily through a progressive federal dedicated tax on personal income and an employer-paid payroll tax with reduced rates for small businesses and for new firms facing economic hardship. States are expected to contribute their fair share, and are permitted to supplement their state global budgets. Limited copayments on certain services could be implemented, if needed, to control utilization of services.

While it's anticipated that the plan's costs may initially come close to the current level of health care expenditures, approximately $600 billion a year (11.7% of the gross national product), the unique delivery system improvements and the cost containment features built into the proposal are expected to decrease health care expenditures over time. The national health plan expands coverage to the 37 million people previously uninsured, as well as the millions more who are underinsured, and eliminates the inequities in paying for health care that characterize our current system.

The principal features of the NASW national health care plan are as follows:

COVERAGE AND ENROLLMENT

All persons residing in the United States are covered through the national health plan. Each person has the freedom to choose from among any of the participating public and private providers, facilities or care delivery options, including Integrated Health Service Plans (IHSPs). IHSPs are nonprofit, consumer-controlled plans which provide comprehensive health care services in their own facilities to an enrolled population. Individuals will enroll in the national health plan in the state in which they reside.

Coverage through employers or other privately purchased health insurance is discontinued, although private insurance plans may provide coverage for services not covered under the national health plan.

BENEFITS

Covered benefits include primary prevention and health promotion services; care coordination services; outpatient primary care services; mental health services; substance abuse treatment and rehabilitation programs; rehabilitation services; hospital services; inpatient and outpatient professional services; laboratory and radiology services; long-term care, including home and community-based services; hospice care; prescription drugs; dental care; hearing and speech services; and vision care.

EXCLUSIONS

Health services that are excluded from coverage include cosmetic surgery, except medically necessary reconstructive surgery; and certain amenities in inpatient facilities, such as private rooms, unless medically necessary.

COST-SHARING

There are no deductibles. The National Health Board (NHB) may require copayments, if necessary, to control utilization, with the following limitations: copayments must not impede access to health care; copayments must be modest in amount; the mechanism for charging and collecting must be administratively efficient; and co-payments must not implement means-testing.

Residents of nursing homes and other residential facilities are required to pay a modest room and board fee. These fees may be waived for those below the poverty line.

IMPROVED SERVICE DELIVERY PROVISIONS

The NASW national health plan provides unique and improved prevention and health promotion services; promotes comprehensive, coordinated, and continuous care that addresses the total health needs of every person through the use of primary care providers, care coordination services, and the promotion of IHSPs as comprehensive, integrated health delivery plans; provides access to health services to underserved populations; promotes the expansion of community-based health and mental health services; and establishes state screening and care coordination systems for the delivery of long-term care.

ADMINISTRATION

A new federal National Health Board (NHB) is established as an independent agency to administer the national health care plan.

All responsibilities of the Health Care Financing Administration are transferred to the NHB. Medicare, Medicaid, CHAMPUS, and the Department of Veterans Affairs' health program are phased out under the national health care plan.

The NHB provides the states with an annual global budget for all covered state health care expenditures. The global budget for each state is based on a formula that considers size of population, age distribution, the cost of delivering care, socioeconomic factors, and a number of key health status indicators. State global budgets will include all state health block grant funds.

The states will, in accordance with federal guidelines, ensure the implementation of all state health services, determine the distribution of all health care funding, develop and administer a mechanism to pay and reimburse all health care providers, work with localities and the NHB regional offices in undertaking health planning and coordination with appropriate social and human services, implement a quality assurance program, administer a consumer advocacy and information program, and license and regulate all health care providers and facilities.

PAYMENT TO PROVIDERS

The states will pay providers in the following manner:

Hospitals will receive a prospective global budget, which will be developed through annual negotiations between the designated state agency and the hospital. Global budg-

ets will only be used for operating expenses. Separate funds for capital expansion and purchase of expensive, highly-specialized equipment will be subject to approval by the state.

Other health care facilities, e.g. community clinics, migrant health centers, nursing homes, rehabilitation facilities, and Integrated Health Service Plans will be paid either on the basis of a prospective global budget or capitation as determined by the state.

Autonomous health care practitioners and group practices will be reimbursed on the basis of fee-for-service, although group practices may choose capitation. The reimbursement rate will be based on a national fee schedule, adjusted for regional variations, and negotiated by the NHB and a representative organization for each category of health care practitioner. The fee schedule will be a resource-based relative value scale similar to that being implemented for physicians under Medicare.

QUALITY ASSURANCE AND CONSUMER PROTECTION

The NHB will establish a National Council on Quality Assurance and Consumer Protection that is responsbile for determining guidelines and overseeing the quality assurance system as it is carried out by the NHB, the Peer Review Organizations, and the Consumer Boards. The NHB will establish quality assurance standards and certification and licensing criteria for all health care providers.

Peer Review Organizations (PROs) as provide for in Title XI of the Social Security Act will be extended to cover all types of health care providers and services. The PROs will be responsible for utilization review and quality control, and must be multidisciplinary in composition and reflect the types of services review. Each PRO is required to have a Consumer Board that will oversee the PROs, make recommendations on PRO contracts and carry out educational programs.

The NHB will develop a national health care data base on quality, effectiveness, utilization and cost of care with respect to all types of health and mental health services.

A consumer advocacy program will be established on the federal and state levels to administer ombudsman programs, hotlines for complaints, consumer information and education programs.

The national health plan will contain a consumer bill of rights.

PLANNING

The national health plan requires local, state and regional planning. At each level, the health planning function will include collecting and evaluating data on: the supply of and demand for health resources, the distribution of such resources, and the health needs of the population in a given jurisdiction. Goals and priorities will be formulated to serve as guides to the development of health policy and programs at each level of government.

FINANCING

The national health care plan is financed primarily from a dedicated tax on personal income and an employer-paid payroll tax. Additional sources of revenue include a state contribution based on a formula that ensures that each state pays its fair share, a dedicated estate tax, an increase in the cigarette and alcohol tax, a tax on types of businesses which have been proven to expose workers to substances that cause chronic and fatal diseases, illnesses and disabilities.

All revenues are placed in a National Health Care Trust Fund. All current federal appropriations for health programs are folded into the national health program and transferred to the Trust Fund.

Small businesses are protected by a cap on the amount they must contribute, and new firms facing financial hardships are protected by a reduced payroll tax rate for the first 3 years of operation.

TRAINING AND EDUCATION

The NHB will collect and compile data for publication related to the supply, composition and distribution of trained health care personnel.

The health plan provides for increased federal funding for a number of existing and new programs to increase the supply of needed health care personnel; encourage more health practitioners to work in underserved areas; support programs that help disadvantaged students to successfully complete health training programs; provide retraining programs for those who are displaced as a result of the program; support new approaches to continuing education programs in rural areas; and enable educational institutions to hire qualified staff to teach the importance of mental and psychosocial health in prevention, treatment and health promotion.

RESEARCH

The plan provides funds for research efforts that focus on the need to: continue basic biomedical and comprehensive mental health research; eliminate or control the major diseases affecting the greatest number of people; develop alternative models of health delivery for special populations; study the impact of psychosocial well-being on illness and disease; develop approaches to encouraging health life styles; and study effective intervention models for the mentally impaired.

The plan also directs research efforts toward examining the impact of care coordination on treatment effectivenesses and efficiency.

Additionally, funds would be available to continue to develop quality indicators for measuring treatment effectiveness in all types of inpatient and outpatient health care settings, and to develop practice guidelines that can assist physicians and other health care practitioners. Research will also be directed at reducing the number of unnecessary medical and diagnostic procedures.

MEDICAL MALPRACTICE REFORMS

The plan directs the NHB to establish a special commission to develop recommendations for medical malpractice reform. The goals of such reforms are to reduce the costs associated with malpractice insurance, reduce the basic for malpractice claims, target physicians and other health care providers who are incompetent, and develop mechanisms that will protect consumers who are victims of malpractice.

THE S&L CRISIS

Mr. WIRTH. Mr. President, we are about to embark on a crime bill on the Senate floor and I hope we get to it. There will be a great deal of discussion during that debate about drug crimes, and there should be; about violent crimes in the Nation's streets, and there should be. We will have a vigorous debate on the death penalty. I am sure that we will have a vigorous debate on the assault provisions, and other items of not insignificant note and great controversy.

I hope, as well, we will have an opportunity during the crime bill to focus once again on perhaps the greatest example of white collar crime that has existed in our Nation's history and that is the S&L crisis. This is the largest single financial crisis in our Nation's history. We have never faced any kind of a scandal like this before. Did I say crisis? Scandal. We have never faced anything like this, and it is going to end up costing the American taxpayer hundreds of billions of dollars.

And the question is who done it? The American taxpayer is beginning to ask questions of all of us and law enforcement authorities: Who is responsible and how are we going to recover some of this ill-gotten gain? These are perfectly logical, perfectly legitimate questions to be asked, because we are finding the more we look into this the more we discover the amount of criminal fraud involved.

Mr. President, let me give you some examples: Recently Attorney General Thornburgh, President Bush's Attorney General, spoke of "Epidemic of Fraud in the S&L Industry," and the Attorney General told us that at least 25 to 30 percent of thrift failures can be attributed to criminal activity by S&L officers. I am going to repeat: 25 to 30 percent of thrift failures can be attributed to criminal activity by S&L officers. This is from the Attorney General.

In another study the General Accounting Office when they looked at 26 thrift failures and case studies to see what happened, how did this happen, what went on, they found that in these 26 thrift failures in each of the insolvent institutions there appeared to be fraud and insider abuse.

We ought to be getting after this, and the American taxpayer knows we ought to be getting after it. In fact, when we passed FIRREA, the legislation designed to start to stabilize the S&L industry, we allocated $75 million additional funding for the Justice Department. The Chair voted for that; we all voted for that.

We thought this was an appropriate expenditure of money, increasing the funding necessary for the Attorney General, U.S. attorneys, and FBI agents. But, unfortunately, the current Justice Department has said that they do not want to spend the money. They do not want to pursue these cases of fraud, abuse, and criminal activity. "We do not need the money," they told us, when, in fact, just the opposite is what the data is showing us. The political level down there says, "We do not want to spend the money."

Talk to the working people at the Justice Department and they say, "Absolutely, we have to spend money to get additional FBI agents and to get additional U.S. attorneys on the job."

Whey do they say that? Not only because the Attorney General himself found all these cases of criminal activity, not only because the GAO found all this, but the FBI itself.

Let me tell you what is going on down there. The FBI received more than 20,000 referrals involving fraud in the financial services industry, more than 20,000 that the bureau cannot examine because they do not have the personnel to do so. They certainly want to, but they are being told from the top down, "Do not get into this." There are 20,000 referrals involving fraud in the financial industry that they cannot pursue.

Now, you might say maybe those are just credit card complaints or something like that. That is not the case. More than 1,000 of these referrals to the FBI we have been able to discover are major cases that involve losses of $100,000 or more. Yet they say: "We cannot use the money; we do not want these additional FBI agents; we do not want these additional U.S. attorneys."

It does not make a lot of sense to me and I suspect when the American public catches on to this it will not make a great deal of sense to them. That is the information coming from the Justice Department itself, from the working people of the Justice Department. "These are all the referrals we have that we cannot do anything about, because we do not have the personnel."

What else are we finding out? Timothy Ryan, the new Director of the Office of Thrift Supervision, about whom we had a very spirited debate, has been in a very good and chosen set of visits going around talking to all of us on the Banking Committee, who had been critical of his appointment, coming up to meet us. We have been finding out what he is doing, getting to know him. I was very pleased to spend a good deal of time with him. He came to my office, and we had an extensive discussion. Enforcement was one of the topics he wanted to discuss.

Mr. Ryan in the process of that discussion told me the following: He indicated that bank and thrift regulators were sending the Department of Justice 8,000 referrals per month regarding criminal and civil violations, and there were now at the Department of Justice 80,000 cases pending. This is the new Director of the Office of Thrift Supervision saying they are sending to the Department of Justice 8,000 referrals a month; they have 80,000 cases pending. This is the same Department of Justice that is telling us that they do not need any more resources.

I had offered an amendment during the time of the supplemental appropriation—and we had works, the Chair will remember, in the supplemental appropriation—for some $450 million for Panama. Clearly we have to do some things for Panama. We caused a great deal of destruction. We want to help rebuild the country. We look at the rationale, how do you get the $450 million. In the rationale, forgetting the $450 million, the administration had included $30 million emergency supplemental funding, $30 million for the promotion of tourism as an emergency supplemental item that we had to have right now, we are told, to promote tourism this spring and this summer before the fiscal year comes out.

I think most people looking at this are going to say, there probably is not an emergency, and I do not think we ought to be spending and can usefully spend $30 million in a dire emergency supplemental to promote tourism in Panama.

Why, Mr. President, we only spend altogether in the United States out of Federal Treasury, $14 million for tourism. I am sure that the Presiding Officer would think we could spend $14 million to promote Cape Cod and tourism in Massachusetts alone; spend that amount of money in the State of Colorado alone. All we spend annually in the United States is $14 million, but we are going to spend $30 million to promote tourism in Panama.

Common sense said to me, it does not seem to me that probably is a dire emergency supplemental. Why do we not make a shift? Why do we not shift the money from the Panama fund that is going to promotion of tourism and instead let us spend that money to pursue fraud, waste, abuse and criminal activity, and see if we can recover those hundreds of thousands of dollar cases that we know are there, millions and millions of dollars, probably billions of dollars, see if we can start to enforce the law and send some of these people to jail.

Do you know anyone in the S&L crisis who has gone to jail? Do your constituents know anyone who has gone to jail? Not many do. There has been a lot of gagging around this and lots of guys waiting for the statute of limitations to run out. Maybe they are going to be OK. I think there is, maybe, a sense of urgency in all this.

Unfortunately, when that amendment was offered, and Senator DIXON was a strong supporter of the amendment, and others were strong advocates of the amendment, the minority raised a procedural point of order. You could not transfer money from within one part of the budget to another part of the budget without getting a waiver of the Budget Act. That required 60-plus votes. We were not able to have 60 votes to do that and we did not transfer that money, and now under the dire emergency supplemental we are going to spend $30 million to promote tourism in Panama but not going to spend the money that is authorized to hire the FBI agents and to hire the U.S. attorneys for the purpose of going after this fraud, waste, abuse and criminal activity.

It may or may not be that the supplemental bill is the place to bring this amendment up again, but the purpose of my taking the floor today was to again outline to my colleagues the size and scope of the problem that sits out there, the need among our financial institutions for the kind of pursuit of the people that have been disobeying the law and effectively stealing from the American public.

The Attorney General is telling us at least 25 to 30 percent of the thrift failures can be attributed to criminal activity. That is from the Attorney General. The FBI has more than 20,000 referrals involving fraud which they cannot pursue. More than 1,000 of those are major cases.

Mr. Ryan is telling us the Justice Department is getting 8,000 referrals per month, and there are now 80,000 cases pending. If we do not think this is a crisis, the American public certainly does. It knows it is a crisis, Mr. President. I can assure you as this crime bill comes up there will be a variety of initiatives taken related to the S&L industry, related to the pursuit of ill-gotten gain and this criminal activity.

We not only have criminal activity that relates to the drug trade, we have white color criminal activity, and it is about time we pursued a good deal of that as well. I hope we will have the opportunity in this crime bill to fashion the kinds of amendments that are going to be necessary.

Mr. President, I yield the floor.

TRIBUTE TO COL. MARK LOWRY

Mr. SASSER. Mr. President, I rise today to recognize 35 years of service to our great country by Col. Mark Lowry II, who, in June of this year will complete his command of the 401st Military Police Prisoner of War Camp, in Nashville, TN.

Throughout his many years of service, Colonel Lowry has distinguished himself on all fronts. He is a 1960 graduate of West Point and holds a doctorate degree from Syracuse University.

While in the Active Army, Colonel Lowry completed coursework at the Military Police School, Command and General Staff College, the National Defense University, and the Army War College.

Colonel Lowry has served with the 101st Airborne Division at Fort Campbell, KY, 173d Airborne Brigade in

Okinawa, and Headquarters, U.S. Army, Ryukyu Islands. He served two tours of duty in Vietnam, the last as operations officer, G3, Headquarters, U.S. Army, Vietnam.

Returning to the United States, Colonel Lowry served on the faculty at West Point for 4 years, whereupon he traded active service for the U.S. Army Reserve.

Colonel Lowry served with distinction in four assignments with the 100th Training Division in Kentucky. He had two battalion-level commands and, under his direction, the 100th Leadership Academy soared to unprecedented achievements and was widely recognized as a standard-setting unit in the 5th Army.

In 1987, after serving assignments to 5th Army Headquarters at Fort Sam Houston and 2d Army Headquarters in Atlanta, Colonel Lowry brought his experience and talents to Tennessee, where he assumed control of the 401st.

A decorated veteran, a highly respected and inspiring leader, Colonel Lowry now leaves the Volunteer State for the rich bluegrass of Kentucky. I want to take this opportunity to commend him for his partriotism, his valor, and his commitment to his country.

CONGRATULATIONS TO DR. RALPH SCORZA, ARTHUR S. FLEMING AWARD RECIPIENT

Mr. BYRD. Mr. President, I have long put an emphasis on the need to achieve excellence in the classroom, in the workplace, and in the community. Consequently, when I find an individual who has exhibited excellence, and that individual happens to live in West Virginia, I take special pride in calling those achievements to the attention of the Senate.

Today, I congratulate Dr. Ralph Scorza on receiving the Arthur S. Fleming Award on May 3 of this year. The Arthur S. Fleming Awards Program honors outstanding young men and women in the Federal Government who have performed outstanding and meritorious work. Dr. Scorza is one of the five individuals governmentwide receiving this award this year for outstanding achievement in science and technology.

Dr. Scorza is a research horticulturist at the Appalachian Fruit Research Station in Kearneysville, WV. He has pioneered research on peach tree growth habits, canopy architecture, and light interactions with regard to high density production systems. Dr. Scorza was the first to report a spur-type peach tree, and has released a new peach cultivar "Bounty" and a nectarine "Earliscarlet." Peach cultivation has been declining in many areas of the United States, and particularly in the Northeast during the last 25 years. Much of this decline is due to high production costs associated with disease, insects, and crop loss due to cold. It is because of research such as that being undertaken by Dr. Scorza and others at the Appalachian Fruit Research Station that we can look forward to healthier, more productive, and more cold-resistant peach trees.

Dr. Scorza's pursuit of excellence does not stop at the door to his laboratory. He is a Cub Scout leader, has been involved in coaching elementary schoolchildren in the local American Youth Soccer Organization, and has spoken to local elementary school classes about careers in science. Dr. Scorza has shared his expertise in plant science by teaching classes at the local elementary school and guiding local college students through research projects in his laboratory as a part of a program to give college biology students practical research experience.

I commend Dr. Scorza for his dedication and for his pursuit of excellence. I also commend him for the work he is doing to encourage our young people to enter the scientific field. We need more people like Dr. Scorza, and I wish him a long and productive career.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,893d day that Terry Anderson has been held in captivity in Beirut.

J.A. JONES CONSTRUCTION CO. CELEBRATES 100 YEARS OF BUSINESS

Mr. HELMS. Mr. President, this year marks a century of business for J.A. Jones Construction Co., and I am proud to note the commemoration of this special centennial celebration.

In 100 years, the company founded by brickmason, James A. Jones, has grown into the 12th largest construction company in the United States. The Jones signature is seen on diverse projects from barracks to bridges, towers to tunnels, in city skylines and landscapes. During these 100 years, J.A. Jones Construction Co. has expanded operations from its headquarters in Charlotte, NC, into 40 States and more than 60 countries. As a diversified general contractor, J.A. Jones now employs more than 8,000 people worldwide.

Jones' construction is seen throughout the Charlotte skyline, having built the first skyscraper in the Carolinas in 1908 and, more recently, the tallest building in the Carolinas. J.A. Jones Construction is also well known outside North Carolina and throughout construction and engineering circles for such landmarks as the National Gallery of Art east wing in Washington, DC; AT&T Headquarters in New York City; and the Peachtree Plaza Hotel in Atlanta, GA.

J.A. Jones Construction played an invaluable role in our country's war efforts through construction projects during World War II and Vietnam. In 1945, the U.S. Department of War awarded the Army-Navy "E" Award for excellence in war production for the company's role in the Manhattan project with the construction of the gaseous diffusion plant at Oak Ridge, TN. From 1965 to 1972, J.A. Jones Construction participated in the military construction program in Vietnam. This was the first time a civilian contractor has been asked to work in a war zone. Deputy Assistant Secretary of Defense Edward Sheridan said:

> The volume and diversification of work performed in a few short years in a hostile environment staggers the imagination.

The company has a long association with the U.S. Army Corps of Engineers, dating back to the Great Depression with the construction of Albrook Airfield in Panama. That association has continued through the years and now includes contracts for a medical center in Egypt, a Voice of America relay station in Morocco, and a powerplant in New York State. Gen. H.J. Hatch of the U.S. Army has commended Jones' work with the Corps of Engineers and its long history of civil military activities noting the company's timely completion of projects and quality work.

J.A. Jones Construction has played a historic role here in the U.S. Capitol. In the fifties and sixties, the company constructed the addition to the Capitol's east front and performed interior restoration work. In 1984, the Architect of the Capitol again awarded the contract for renovation of the Capitol's west front to a Jones company.

Overseas, J.A. Jones Construction has designed and upgraded security facilities for several U.S. Embassies. The company's work brought high praise from Assistant Secretary Robert Lamb, Bureau of Diplomatic Security in the State Department, who noted Jones' "outstanding commitment to excellence" and the company's "great service to our country."

Mr. President, J.A. Jones Construction Co. places a high priority on commitment and service to the U.S. Government. The company is a strong supporter of the Government's efforts to privatize many government facilities. Jones is currently constructing a high-temperature water cogeneration plant in Watertown, NY, for the U.S. Army and will own and operate the completed project for the Government. This arrangement benefits all parties involved.

Both the Federal and State governments have placed environmental concerns high on the agenda. J.A. Jones

Construction shares these concerns and is eager to implement ideas that will prevent the deterioration of our living environment. Jones is also working to preserve the infrastructure of the country through evaluation and replacement of highways and bridges, water and sewer mains, and waste treatment plants.

Today, the Jones Group oversees Jones Construction and 12 subsidiaries throughout the country. The group continues to make construction history. It is currently rebuilding the Newark Airport in New Jersey and the world's tallest concrete structure in Chicago. J.A. Jones Construction Co. is now building a drydock for the Trident submarine fleet in Georgia and continues to upgrade security facilities for U.S. State Department Embassies in many countries. In its hometown, Charlotte's One First Union Center is one of Jones' proudest achievements.

As J.A. Jones Construction Co. and the Jones Group look to the next 100 years, the tradition and high standard of quality marking each Jones endeavor will ensure continued success and reinforce its position as an industry leader.

North Carolina takes pride in the accomplishments of J.A. Jones Construction. On behalf of my fellow North Carolinians, I extend my sincere congratulations on the celebration of this remarkable company's centennial and offer best wishes for continued success in the next century.

DRUG ABUSE TREATMENT AND PREVENTION IMPROVEMENT ACT

Mr. CRANSTON. Mr. President, last Thursday, the distinguished chairman of the Labor and Human Resources Committee, Mr. KENNEDY, introduced S. 2649, the Drug Abuse Treatment and Prevention Improvement Act of 1990. I am proud to be a cosponsor of this important and far-reaching legislation.

I have long believed that we will never successfully beat back the drug plague until so-called demand-reduction activities—drug treatment and prevention—receive serious attention and support at least on a par with supply-reduction activities law enforcement and interdiction. As long as drug addicts who want to get off of drugs are turned away from treatment programs and as long as young people see no real alternatives to the drug culture and the profitable criminal activities of drug-trafficking gangs, we cannot and will not succeed.

Mr. President, S. 2649 seeks to establish comprehensive and long-term drug treatment and prevention programs. It recognizes that a broad spectrum of programs is needed to meet different community and population needs, such as programs targeted to pregnant women and children and individuals incarcerated in prison. I congratulate the chairman for his vision and his leadership in introducing this legislation.

Mr. President, I am particularly pleased that S. 2649 includes provisions, based on legislation I introduced, to enhance community drug prevention efforts and to expand training programs concerning drug abuse prevention.

Over the last couple of years, I have been holding public forums and meeting with community leaders throughout California on how best to reduce the demand for drugs. Working at the grassroots level, these parents, teachers, and community leaders are truly the foot soldiers in the war on drugs. But they need help. They need the financial assistance to put together comprehensive, effective and community-wide drug prevention programs. And they need the technical assistance to develop the strategies most likely to succeed.

As a result of these forums, last June, I introduced the proposed Comprehensive Community Substance Abuse Prevention Act, S. 1233. This bill would direct the Office of Substance Abuse Prevention [OSAP] to support coalitions of public and private organizations that represent law enforcement, schools, health and social service agencies, community-based organizations, and substance abuse prevention specialists in their efforts to develop substance abuse prevention programs. Representatives from among the clergy, academia, business, parents, youth, the media, and civic and fraternal groups would also be included in the community coalitions.

The bill would also establish a National Substance Abuse Prevention Training Program. Because of the emphasis over the last 10 years of dealing with the drug epidemic from a law enforcement point of view, there are few individuals trained in the field of drug prevention. Training programs are badly needed to enable communities to develop and implement comprehensive drug prevention programs.

Mr. President, $50 million has been appropriated for fiscal year 1990 for community prevention programs. The program is being conducted under a general authority for OSAP. I believe, however, that more specific congressional direction is needed to provide this new program with the greatest chance for success. I also believe the legislation is necessary to ensure the program's continuation in future years. This legislation would provide a blueprint for the implementation and continuation of this essential program.

Mr. President, there are many other provisions of this bill that I think are outstanding, including provisions to expand research into new medications to treat drug addiction that Senator BIDEN proposed and provisions to enhance drug treatment programs that Senator KENNEDY discussed previously. I again want to congratulate the Senator from Massachusetts and urge the enactment of this bill.

REAUTHORIZATION OF THE RESOURCE CONSERVATION AND RECOVERY ACT

Mr. BURDICK. Mr. President, as chairman of the Committee on Environment and Public Works, I rise to discuss the reauthorization of the Resource Conservation and Recovery Act, also known as RCRA. On June 1, 1989, I stated that after Clean Air Act amendments, the next priority of the Environment and Public Works Committee would be RCRA reauthorization amendments. While I have tried to adhere to a schedule which would have had the committee reporting such amendments to the Senate in sufficient time to allow us to pass the legislation, conference with the House, and send a bill to the President for his signature this year, events may well have overtaken us.

It is well known that committee members, along with many other Senators, were engaged in a long, exhaustive debate on amendments to the Clean Air Act. The urgent need to address liability issues regarding oilspills, highlighted by the Exxon oilspill in Prince William Sound, AK, led my committee to send oilspill legislation to the Senate in mid-1989. The Senate subsequently passed that bill, and we are now engaged in a conference with the House on the oilspill issue. The House of Representatives is soon expected to pass its version of Clean Air Act amendments. Assuming it does so, I expect that we will be in conference on the Clean Air Act by mid-June.

Mr. President, it is anybody's guess now long it will take to get through the clean air conference and to have a conference report before the Senate for a vote. Because time is short, with only 14 weeks before Congress is expected to adjourn sine die, I can no longer assume that there exists enough time for the requisite hearings, markups, and debate necessary to address the wide range of RCRA issues in committee and on the Senate floor.

Amendments to the Resource Conservation and Recovery Act will not be a simple matter. The waste reduction, recycling, composting, and other matters related to municipal solid waste will require much consideration and will, in all likelihood, affect the population at large and numerous economic sectors, as well. Though I prefer to keep changes to the RCRA hazardous waste title to a minimum, any legislation in this area is always contentious.

Recently promulgated EPA land ban rules have already been the subject of controversy. I suspect commenters will have much to say about them in the context of reauthorization activities. A myriad of other hazardous waste issues are also likely to surface.

The Environmental Protection Agency has, for a considerable time, been working on pollution prevention legislation. We hope the Office of Management and Budget will clear the agency's draft and allow EPA to send an administration-approved package to us for consideration. Much of the administration's proposal relates to the municipal solid waste provisions of RCRA. Indeed, I am informed that many of the ideas contained in EPA's draft pollution prevention bill are similar to those contained in legislation introduced last year by Senator BAUCUS as S. 1113 and by Senator CHAFEE as S. 1112.

On the hazardous waste side, RCRA is the statute which, I believe, represents a strong connection among all environmental media: land, air, ground water, surface water. Consequently, I believe RCRA reauthorization rightfully should include waste reduction or pollution prevention issues. I believe that it would be wasteful for my committee and for the Senate to address such issues separately from RCRA itself. Were a freestanding waste reduction bill to proceed, it is my judgment that we would have to revisit similar issues in RCRA reauthorization.

I now intend that RCRA reauthorization be my committee's first priority in the 102d Congress. In order to proceed as soon as possible on such legislation next year, I have asked the chairman of the Environmental Protection Subcommittee, Senator BAUCUS to thold additional RCRA hearings this year. Senator BAUCUS and I have agreed that subsequent to those hearings we will work toward a comprehensive RCRA package for our consideration in the next Congress. In the interim, I have directed my staff to meet with interested parties to discuss their RCRA related concerns and ideas.

Mr. President, I hope those interested in the reauthorization of the Resource Conservation and Recovery Act now have a better understanding of the committee's plans regarding such important legislation. Again, all interested parties are invited to discuss with the committee their thoughts on solid and hazardous waste.

ANNOUNCEMENT OF RCRA HEARINGS

Mr. BAUCUS. Mr. President, now that the Senate has passed clean air legislation, I have been getting many inquiries from my colleagues about the schedule for reauthorizing the Resource Conservation and Recovery Act. As chairman of the Environmental Protection Subcommittee, I want to spend a few moments to notify my colleagues of my plans for RCRA legislation.

I have publicly mentioned on several occasions that, after clean air legislation has been put to rest, RCRA will be the next major environmental initiative. As my colleagues know, the Environmental Protection Subcommittee and the full Committee on Environment and Public Works spent the better part of this Congress discussing and debating clean air legislation. And we are still not finished.

The House is now considering their own clean air bill, and we expect to be in conference shortly. And as my colleagues also know, we are now in the midst of a conference on oilspill legislation.

This is all to say that, while RCRA is the next major piece to environmental legislation, given our workload, it is doubtful that we will have enough time to fully debate all of the complex and controversial RCRA issues this year. But, as subcommittee chairman, I want to let my colleagues know that I intend to begin serious RCRA discussions this year.

Last June I held a hearing on pending RCRA legislation. I intend to continue hearings on RCRA issues, beginning next month. On or about June 26 I will hold a hearing to consider interstate waste transport issues. This politically charged issue will be at the heart of the RCRA debate.

For my colleagues who do not yet understand this issue, the interstate waste transport controversy calls into question the extent of States rights. And let me point out that in our environmental laws we have been very careful to reserve a State's right to provide more restrictive controls within each State. States should not be deprived of their right and obligation to protect their citizens and environment from the hazards of solid waste. In my own State of Montana, we feel strongly that our State should not become a dumping ground for the rest of the Nation.

The latest controversy—regarding the creation of State barriers to restrict the interstate transport of solid waste—is pitting waste exporting States against waste importing States. It is calling into question just how far States are allowed to go. The hearing will provide the first opportunity to examine this issue in detail, and more importantly decide what we can do about it.

I also plan to hold a hearing on recycling. I plan to use this hearing to examine recycling incentives and disincentives. I intend to examine regulations, policies, and other barriers which discriminate against recycling, as well as policies that can be used to stimulate recycling.

These hearings will continue to establish a foundation for enacting comprehensive RCRA legislation in the next Congress.

This will not be easy. But as chairman of the Environmental Protection Subcommittee I will be working toward a comprehensive RCRA package. I have discussed these plans with Chairman BURDICK and we both agree that this is what we need to do.

I am convinced, as is Chairman BURDICK, that there is no single problem and no single solution. Our Nation has many solid waste problems and we must provide for a variety of solutions. We must resist the temptation to tackle the sexy issues—like pollution prevention—now and leave the tough but critically important issues until tomorrow, when it may be too late.

During this Congress a number of individual bills have been introduced to tackle different portions of this crisis. Many are excellent bills and my colleagues should be commended for their leadership on the issue. But as I'm sure they will agree, as separate bills they will not solve our crisis. But weaved together in a comprehensive fashion, they will help us through the solid waste maize and put us on track toward a responsible solid waste program.

I look forward to working with my colleagues to join me in working to enact strong comprehensive RCRA legislation.

RECESS

The PRESIDING OFFICER. Under the previous order the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

The PRESIDING OFFICER. In my capacity as the Senator from North Carolina, I suggest the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Republican leader is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of Senate Joint Resolution 324 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

Mr. McCAIN. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business for 5 minutes.

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

PASSAGE OF THE AMERICANS WITH DISABILITIES ACT BY THE HOUSE OF REPRESENTATIVES

Mr. McCAIN. Mr. President, I am pleased that the House of Representatives has just passed the Americans With Disabilities Act. This important legislation, of which I was proud to be an original cosponsor, will ensure equality for our Nation's 43 million disabled citizens.

I am particularly gratified that the telecommunications section, title IV, was passed and will now open our Nation's telecommunications network to the 24 million Americans who are hearing and/or speech impaired. Mr. President, the ADA continues the goal of universal telephone service which I set forth 2 years ago when I introduced the Telecommunications Accessibility Enhancement Act of 1989, which subsequently became Public Law 100-542. That bill mandated that the Federal Government become accessible to our deaf and hearing impaired citizens. Here, we require that the whole Nation be accessible.

It has been over 100 years since Alexander Graham Bell invented the telephone as a device to help his deaf wife. Can you imagine not being able to pick up a phone and call anyone, anyplace? The telephone has become an essential part of our daily lives and commerce, but as a result, it has also become one of the major barriers deaf and hard of hearing people must face everyday.

We must ensure that our entire telephone system truly becomes universal. Last year I introduced S. 1452 to mandate that accessibility. This measure was incorporated into the ADA as title IV, and it will move us closer than ever before toward granting the hearing- and speech-impaired community the type of independence and greater opportunities sought by other sections of the ADA.

Legislation, however, cannot alone break down the walls of isolation or solve all these problems. Action at all levels of society, by each of us, is critical. If given the opportunity, the only thing that limits these individuals are their own dreams—but we must all work especially hard to make sure they are given the opportunity.

Mr. President, the opportunity I speak of is a very fragile concept. Our Nation stands on the world stage as the torch bearer of freedom and opportunity. The ADA reaffirms our historical commitment to that goal. I am confident that by passing this legislation, we are sending forth a resounding message that we will not accept discrimination and that Americans should be viewed on the basis of merit, nothing else.

I call on everyone who has expanded the concept of opportunity to rally together and make equal opportunity more than law, but a state of mind. I call on these heroes of the American way, individuals such as Justin Dart, I. King Jordan, and others who daily overcome the barriers society places before them to continue their fight and never, never give up.

Mr. President, I want to thank my colleagues for their help and support as I crafted title IV of the ADA, but most importantly, I want to thank the 24 million deaf and hearing impaired Americans who have continued their valiant crusade to see their dreams become reality.

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

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DEATH PENALTY FOR MAJOR DRUG DEALERS

Mr. D'AMATO. Mr. President, on November 21, 1989, I introduced S. 1955, along with 33 cosponsors. That bill provided for the death penalty for major drug dealers, because I believe that those who sow the seeds of death and destruction should face the death penalty.

They are indeed the worst of the worst, and they deserve the death penalty. They bring death and destruction to our communities. They make us prisoners in our own homes.

I pointed out, there were 33 cosponsors. It was carefully crafted and drawn to deal with those who lead the criminal enterprise system within the drug cartels—not the street corner dealer, not the addict, not the young college student who might become involved in a small transaction of the selling of drugs to a friend or a fellow student—but for those who were involved in at least three felonies and for those that distribute the large quantities that we hear increasingly more about. We define it as 30 kilograms or 66 pounds of heroin; 150 kilograms, which translates into 330 pounds of cocaine; or enterprises which receive $10 million during any 12-month period from the manufacture, importation, or the distribution of drugs.

Mr. President, let us look at some of the relevant things that take place in our communities, in our urban centers, and throughout our Nation. Because of these dealers, traffickers in death, we not only have the kinds of robberies and killings and muggings, and the fear that is constant and pervasive not only in our inner core cities but throughout our rural hamlets, but we have something much more tragic—the most innocent of the innocent; we hear of children shot down on playgrounds because of turf battles. What about the 200,000 addicted babies that are born each year whose mothers are drug addicts. That is 200,000 babies annually; again the most innocent of the innocent.

We need to talk about the incredible pain and anguish that that brings to a family, and the incredible cost it brings to society.

Last week the drug czar, William Bennett, submitted legislation similar to my death penalty bill as part of his National Drug Control Strategy Implementation Act.

His legislation, which I intend to file as an amendment to S. 1970, permits the death penalty for major drug dealers and drug kingpins who attempt a killing to obstruct an investigation or prosecution and for drug-related killings resulting from extreme recklessness, for example, killing of innocent bystanders during a shootout among drug dealers.

As you recall, we passed legislation 2 years ago which brought about the death penalty, for the first time, for a killing that comes about as a result of the drug organizations and the kingpin ordering that killing. I understand that in Chicago, for the first time, that Federal law is being implemented.

This bill says that where there is that reckless endangerment, where innocent bystanders are shot down, the death penalty can be applicable. It is interesting to note that this body passed that legislation overwhelmingly and that, in conference, the House of Representatives dropped it out. What they were thinking about is beyond me, because, again, if a person demonstrates that kind of reckless disregard for innocent bystanders, why should he not face the death penalty?

The only change I make in the legislation and the amendment which I intend to offer along with others of my colleagues is to make it clear that those who commit these crimes, if they are not sentenced to the death penalty, will be sentenced to life in prison. So you can say that this

amendment to our crime package will provide life imprisonment or the death penalty.

Why do I do that? Because, Mr. President, we have heard those who say, if you offer a bill that provides penalties of 20 years up to life that this is more severe. So, we are making a statement very clearly that there will be, if you are convicted, life imprisonment at the least and the death penalty where the jury finds that there are no extenuating circumstances and you are a major importer or transactor of the kind of drugs we are talking about. As far as this Senator is concerned, there are no mitigating circumstances; there are no mitigating factors. They are responsible for consigning the innocent of the innocent, 200,000 babies a year, to a living death of being born into addiction. These people forfeit their right, as far as I am concerned, to be treated any more humanely than the death penalty.

Mr. President, 34 percent, one third, of the convicted murderers surveyed by the Justice Department in 1986 used a drug every day in the month before their crimes, and a third to a half of the homicides in our Nation's cities are drug related. Three-quarters of all robberies and half of all felony assaults by young people now involve drug users. Over one-third of all violent felonies are committed by persons under the influence of drugs.

I cite these statistics to show the kind of incredible impact and harm these major dealers and organizations have on our communities and how this nation has, because of these dealers, lost its domestic tranquility.

In one 12-month period in Miami, 573 narcotics users were responsible for committing over 12,000 crimes, 6,000 robberies and assaults and 6,700 burglaries.

A 1983 study, conducted by researchers at Temple University, the Johns Hopkins University School of Medicine, and the University of Maryland, produced a staggering statistic in terms of what happens to those people who do become addicted, what happens to their lives and how that transcends into a community. Three hundred fifty-four heroin addicts in this study committed over 770,000 crimes over a 9-year period of time. We are talking about walking crime machines.

When people wonder about the loss of domestic tranquility and people wonder about the loss of quality of life that is taking place in our communities, one must look to the drug epidemic as a cause. The drug traffickers know how dangerous the crimes they commit are but they do not care. The fact is that they know that innocent people will die. The fact is they know that they traffic in a dangerous business. But the fact of the matter is that this Government has lacked the gumption to stand up and say, yes, we know and we recognize that this is not going to stop the drug epidemic, but it certainly symbolizes that we are going to undertake a serious effort. Those who are responsible for the tragic consequences that are taking place in our communities, who are part and parcel of this, and who make these profits and are responsible for incredible shipments or sales of these drugs—and I call them merchants of death—that they should be prepared to face the ultimate punishment. And I think that sends a very strong message.

Hopefully, with the adoption of other measures, in the areas of education, training, rehabilitation, and drug testing, we can turn the tide. Drug testing as well as education is going to play an important role in attempting to reverse that tide.

Mr. President, I ask unanimous consent that the text of the amendment that I will be proposing along with other Members be printed after my remarks.

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

At the appropriate place insert the following:

SECTION . SHORT TITLE.

This subtitle may be cited as the "Drug Kingpin Death Penalty Act of 1990."

SEC. . DEATH PENALTY AUTHORIZATIONS AND PROCEDURES.

Title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral attack on judgment imposing sentence of death.

"SEC. 3591. SENTENCE OF DEATH.

"A defendant who has been found guilty of—

"(a) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section;

"(b) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person; or

"(c) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified: Provided, That no person may be sentenced to death who was less than eighteen years of age at the time of offense; and provided that if a defendant described in section 3591(b) or (c) is not sentenced to death, said defendant shall be sentenced to life in prison.

"SEC. 3592. FACTORS TO BE CONSIDERED IN DETERMINING WHETHER A SENTENCE OF DEATH IS JUSTIFIED.

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge. The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTIONS OF VIOLENT OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, seri-

ous bodily injury or death upon another person.

"(3) PREVIOUS CONVICTIONS OF DRUG OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(4) PREVIOUS CONVICTIONS OF VIOLENT AND DRUG OFFENSES.—The defendant has previously been convicted of a Federal or State offense, punishable by a term of imprisonment of more than one year, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person, and has previously been convicted of a Federal or State offense, committed on a different occasion and punishable by a term of imprisonment of more than one year, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(5) SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(6) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(7) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405 of the Controlled Substances Act (21 U.S.C. 845) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405A of the Controlled Substances Act (21 U.S.C. 845a) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(9) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405B of the Controlled Substances Act (21 U.S.C. 845b) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(10) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factors exist.

"SEC. 3593. SPECIAL HEARING TO DETERMINE WHETHER A SENTENCE OF DEATH IS JUSTIFIED.

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice—

"(1) that the Government in the event of conviction will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors enumerated in section 3592 and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purposes of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a)(2) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

Information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If an aggravating factor required to be considered under section 3592(b) is found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factor or factors. The jury, or if there is no jury, the court, shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation

regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"SEC. 3594. IMPOSITION OF A SENTENCE OF DEATH.

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release or furlough.

"SEC. 3595. REVIEW OF A SENTENCE OF DEATH.

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

"SEC. 3596. IMPLEMENTATION OF SENTENCE OF DEATH.

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"SEC. 3597. USE OF STATE FACILITIES.

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"SEC. 3598. APPOINTMENT OF COUNSEL.

"(a) FEDERAL CAPITAL CASES.—

"(1) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other provision of law, this subsection shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3699(b) of this title has occurred.

"(2) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this subsection shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(3) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the district court that imposed the sentence. Within 10 days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this subsection for appointment of counsel for subsequent proceedings. On the basis of the determination the court shall issue an order: (A) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (B) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (C); denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this paragraph shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(4) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this subsection, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least five years and have at least three years of experience in the litigation of felony cases in the federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(5) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this subsection, the provisions of section 3006A of this title shall apply to appointments under this subsection.

"(6) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(b) STATE CAPITAL CASES.—The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a state court or other state proceeding in a capital case, other than any requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28, United States Code, relating to a state capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by the provisions of section 3006A of this title.

"SEC. 3599. COLLATERAL ATTACK ON JUDGMENT IMPOSING SENTENCE OF DEATH.

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In any case in which a sentence of death has been imposed for an offense against the United States and the judgment has become final as described in section 3598(a)(3) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(a)(3) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28,

United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings; and

"(2) the failure to raise the claim is (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed."; and

(b) in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty ..... 3591".

Mr. D'AMATO. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

JIM HENSON

Mr. ADAMS. Mr. President, I rise today to pay tribute to a man who has impacted the lives of millions of Americans with his creative genius. Last week, Jim Henson, the creator of "Sesame Street" and "The Muppets" died tragically and suddenly of pneumonia.

There are no words that can adequately describe the feeling of sadness across the Nation at the news of Jim Henson's death. But, sometimes it is true that one picture is worth at least a thousand words. One picture that I want to share, even though I must do it descriptively with words, is an image of one house in this town, the Nation's Capitol.

There is a house in this city that contains a big plate glass window. In that window hangs four children's drawings of Kermit the Frog, Big Bird, and Bert, and Ernie. Tears are coming from the eyes of Kermit, Bert, and Ernie, and Big Bird is saying, "Bye Friend."

We have lost a friend. A friend who spent his life caring about all of our children and grandchildren. I cannot imagine that we will see the likes of Jim Henson again soon. He brought magic and hope to so many households across this Nation. He reached out to help children read, learn science and math and to help them realize that learning can be fun. He showed them how to be good citizens, good neighbors, and to distinguish right from wrong.

"Sesame Street" and "The Muppets" will continue but they will never again be quite the same. There will have to be a new Kermit and Ernie. But as will all those who have influenced the course of history, Jim Henson leaves a legacy behind him that will endure and continue to go on capturing the imagination of millions and millions of children in years to come.

OPENNESS AND PREDICTABILITY IN DEFENSE AND SPACE

Mr. DOLE. Mr. President, last week, Lt. Gen. George L. Monahan, Director of the Strategic Defense Initiative Organization traveled to Geneva to provide Soviet negotiators at the defense and space talks with an in-depth look at the progress being made in the SDI Program.

General Monahan outlined the architecture which is taking shape around the promising brilliant pebbles—highly independent, small, low-cost satellites which would acquire, track, and destroy nuclear weapons flying toward the United States.

Moreover, the general answered all Soviet questions regarding the SDI Program.

In my view, through the Monahan visit the United States took a significant step toward furthering openness in the area of defense and space. Openness has long been a U.S. objective at these talks.

The value of openness is that it contributes to predictability in the strategic relationship. It does so by averting miscalculation and surprise which can be destabilizing.

The United States has traditionally been open about its defense policy, while the Soviet Union has been closed. The SDI Progam, among others, has been conducted openly as is evident in the annual report to the Congress on the strategic defense initiative.

My colleagues may recall that last December, top Soviet scientists toured two United States labs engaged in work on strategic defenses. This trip was organized by the United States in order to demonstrate how a U.S. proposal in the defense and space talks—visits to labs—would work. And, the Soviets, upon their return to Geneva, accepted this United States concept.

To followup on the December visit, the United States recently proposed that we and the Soviets each choose a ballistic missile defense project for a pilot run through all the U.S. proposed predictability measures: data exchange, meetings of experts, briefings, exercise of ABM test satellite notification procedures, visits to labs and observations of tests.

If we are able to do this, we will be well on the way to a free-standing agreement on predictability measures which the United States proposed just last month.

Predictability measures will not resolve all our differences in defense and space, but efforts like this recent visit to Geneva by General Monahan should demonstrate to the Soviets that we truly want an open, cooperative transition to a more stable deterrence—a deterrence which includes defenses. This, after all, is the United States objective at the defense and space talks.

As I have said before, the goal of arms control is to enhance stability and security. A cooperative transition to greater reliance on defenses will serve to enhance deterrence and thus, stability, as we move to lower levels of offensive weapons under a START regime.

And, as the President noted earlier this year, strategic defense "doesn't threaten a single person anywhere in the world * * * God forbid, if it ever had to be used, it would be used against missiles, not against people."

Mr. President, 5 years ago, maybe even a year ago, few would have imagined that the United States and the Soviet Union could even come this far together in the defense and space talks. But, I believe that the United States and the Soviet Union share some compelling interests—such as greater stability and security against the threat of ballistic missile proliferation—that could serve to move us even closer in this endeavor.

THE MONTREAL PROTOCOL

Mr. LEAHY. Mr. President, there are reports that the White House has, against the recommendations of the State Departmnent and the Environmental Protection Agency, decided not to join over 140 other nations in setting up a special fund to assist poor Third World countries to comply with the Montreal protocol to reduce the emission of chlorofluorocarbons into the atmosphere. This is a replay of the White House decision earlier this year not to provide U.S. leadership in negotiating an international agreement on global warming.

Conclusion of the Montreal protocol was a fundamental step forward in controlling the problem of CFC damage to the upper ozone layer, and it is very much in the long-term national interests of the United States that there be maximum compliance with its requirements. This is why I am so disappointed with this latest sign of Bush administration refusal to cooperate with other nations in fighting international environmental threats such as global warming, and release of CFC's. There is an international meeting in June to negotiate additional arrangements under the Montreal Convention and to capitalize this special fund. I regret that the administration apparently intends not to declare its intention to make a U.S. contribution.

My information is that the United States share of a $100 million fund to help Third World compliance with the Montreal protocol would be $25 million over 3 years, or about $8.3 million per year. This is a pittance alongside the more than $8 billion the President has requested for security assistance in the fiscal year 1991 budget.

Mr. President, the legislation introduced today by Senator GORE would authorize a United States contribution of up to $25 million for the Montreal protocol. I strongly support it and only wish the President would use the authority he already has to provide these funds at the June meeting.

In my capacity as chairman of the Foreign Operations Subcommittee and in anticipation of Senator GORE's legislation, I recently included language in the statement of managers accompanying the fiscal year 1990 supplemental appropriations bill, indicating my intention to provide sufficient funds in the 1991 foreign operations bill for a U.S. contribution. We cannot stand by and allow U.S. leadership in protecting the atmosphere to be eroded for lack of $8 million. I will be contacting the members of my subcommittee soon to ask for their help and support as I seek the necessary money out of security assistance.

"SONG OF STATEHOOD" RHODE ISLAND'S BICENTENNIAL

Mr. PELL. Mr. President, the month of May is a very special time in the historical calender of Rhode Island. On May 4, 1776, Rhode Island became the first of the Thirteen Colonies to declare its independence from the British crown. And 14 years later, on May 29, 1790, Rhode Island became the last of the Colonies to join the Union of States.

The same patriots who were determined to assert their independence from Britain were almost as reluctant to cede any of that independence to the new Federal Union. Only after 3 years of acrimonious debate over States rights did the motion to join the Union eke through the general assembly by a 34-to-32 vote.

Perhaps because of some lingering sense of the narrowness of that historic vote, its 200th anniversary is being observed rather quietly this year. I hasten to assure my colleagues, however, that there is no move afoot to reconsider the matter.

One Rhode Islander who wants to celebrate the occasion appropriately is Virginia Louise Doris, historian and poetess who frequently commemorates in epic verse important milestones of Rhode Island's history. I ask unanimous consent that her poem entitled "Song of Statehood" be printed in the RECORD at this point.

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

"SONG OF STATEHOOD" RHODE ISLAND 1790–1990

Statehood, sweet statehood! our voices resound,
Queen by God's blessing, unsceptred, uncrowned!
Statehood, proud statehood! our pulses repeat,
Warm with her life-blood, as long as they beat!

Listen! The music of their dream perchance may linger still
In the old familiar places beneath their Emerald Hill.

Here at this alter our vows we renew
Still in thy cause to be loyal and true,
True to thy flag on the field and the wave,
Living to honor it, dying to save!

Wake in our breasts the living fires,
The holy faith that warmed our sires,
Thy spirit shed through every heart,
To every arm thy strength impart!

Our lips should fill the air with praise,
And pay the debt we owe,
So high above the songs we raise
The floods of garlands flow.

Harken! The trill of their drama perchance may linger still
In the new explored arbors beneath their Emerald Hill.

Statehood, sweet statehood! our voices resound,
Queen by God's blessing, unsceptred, uncrowned!
Statehood, proud statehood! our pulses repeat,
Warm with her life-blood, as long as they beat!

This Poem is dedicated to the Isle of Rhode men who drafted the proclamation of statehood, de fide!

While hope shall on her anchor lean,
May history fondly turn
To wreath the amaranth and the palm
Around their funeral urn. In Memoriam.

Land of Roger Williams, the Providence peacemaker and our founder! (1636)

ACHIEVEMENT OF NORTH PROVIDENCE, RI

Mr. PELL. Mr. President, I wish to share with my colleagues the outstanding achievement of the town of North Providence, RI. The North Providence Senior Center Partnership was awarded the 1990 Community Achievement Award from the Administration on Aging for its excellent work in promoting community public/private partnerships to serve the needs of area senior citizens. I congratulate the town of North Providence and the NPSCP for receiving this honor.

Mr. President, in the late 1970's the North Providence Senior Center noticed a shortage of primary care physicians in their community and a resulting lack of accessibility to health care to many of the area's senior citizens. Emergency rooms were being overutilized at high costs to senior citizens and to the State.

The senior center, in concert with the town of North Providence, the Brown Medical School and Roger Williams General Hospital acted to fill the void. The solution—the establishment of a primary health care clinic at the North Providence Senior Center. The partnership now serves the needs of 200 of the town's senior citizens and their early intervention on numerous occasions has prevented disabling and more serious and costly illnesses for many seniors.

Rising health care costs and increasingly limited State and Federal budgets have made it more and more difficult to ensure that our Nation's senior citizens receive the care they need and deserve. The North Providence Senior Center Partnership fills a gap in services to the elderly by a carefully planned and innovative coordination of public and private efforts. The town of North Providence has risen to the task in an increasingly difficult situation.

In addition, Mr. President, I am pleased to report that since the inception of this partnership in North Providence other similar partnerships have been developed in other parts of my home State. These initiatives are especially critical in Rhode Island which boasts the Nation's third highest population of senior citizens.

The town of North Providence and the NPSCP truly deserve this award for excellent work in coordinating

community and public resources to provide care and services to senior citizens and for the example which the partnership has set in other parts of the State.

Mr. President, I congratulate Ms. Kathleen M. McKeon of the Rhode Island Department of Elderly Affairs; the Honorable Salvatore Mancini, mayor of North Providence; Ms. Corinne Calise Russo, director of the North Providence Senior Center; Mr. John Testa, chairman of the board of the North Providence Senior Citizens Center, and Dr. Marsha Fretwell, of Brown University's Program in Geriatric Medicine, who have been invited to Washington to receive this award.

SENATE JOINT RESOLUTION 304

Mr. SHELBY. Mr. President, on May 3, I introduced Senate Joint Resolution 304 which designates October 17, 1990, "National Drug-Free Schools and Communities Education and Awareness Day." This joint resolution focuses schools on kicking off their 1990-91 academic year with drug education and awareness programs, which they will share with their communities on October 17, and throughout the year. I am happy to note that we already have 22 cosponsors for this joint resolution.

For too long, this country focused its antidrug abuse campaign on "Just Say No." Now, Mr. President, we are waking up and realizing that just saying "no" will not solve our problems. Rather, we must provide our children with positive choices to which they can say "yes." However, this is a very difficult job and one that can not be accomplished by any single group. Providing choices to which our children can say "yes" is a three-step process which requires the involvement of parents, educators, and members from all segments of the community.

The first step is to teach our children that the decisions they make affect not only themselves, but also their families, friends, schools, and communities. Our youth must learn that such decisions often have long-term effects which can irreversibly change their lives, for example, using drugs once can cause a student to lose a college scholarship or not be hired to a good job.

The second step is to provide our children with decisionmaking tools which will serve them throughout their lives. Decisionmaking tools are what we employ every day when we analyze the effects of the choices we make and view our options. Today's world is a complex and confusing place; therefore, we must teach our youth to cope with the many difficult situations they will find themselves in so they can confront and conquer problems instead of escaping through the use of drugs.

The third step is to provide our children with positive alternatives. These alternatives need to include, but not be limited to, after school sports programs, activities, and clubs, as well as community service projects and employment opportunities. We must provide our youth with enough positive alternatives to say "yes" to so they no longer view drugs as a viable option.

Self-esteem is critical for our youth. Unfortunately it is not something we can teach or give our children. However, it is something we can nurture and help our children develop. To do so, we must show our youth how important they are to us. If we as parents, educators, and community members do not show our children that they are important to us, how can we expect our children to value themselves and their communities. Listening to and becoming active participants in our youths' lives is the best way to demonstrate to our children their importance. While this role is often easier to see when discussing parents and teachers it is still vitally important that the community reach out to our youth.

Mr. President, I urge my colleagues to become cosponsors of the joint resolution.

MESSAGE BY MAYOR DINKINS TO NEW YORK CITY ON RACIAL HARMONY

Mr. MOYNIHAN. Mr. President, as we proceed here on this floor, Mayor David Dinkins, in New York City, is speaking to a unity rally at the Cathedral of St. John the Divine.

Mayor Dinkins speaks with determined reason against bigotry, ignorance, and hate. He is, with inspiring effort, striving to calm the fears and passions which have ignited into violence, and have infected communities with noxious vigor. We fervently hope that his words find their audience with composing effect. New York City could scarcely be more in need for just that.

Mr. President, I ask unanimous consent that the text of this address by Mayor Dinkins be printed in the RECORD.

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

REMARKS BY MAYOR DAVID N. DINKINS

Good evening and thank you all for coming—and caring—about this City we all call home.

Look around you. This is a beautiful sight, in a magnificent place, and there is a feeling here—a spirit and a power—that simply cannot be denied.

So look around. Look at all the people who have joined here tonight out of concern for our community.

We are New York City—a gorgeous mosaic of race and religion, national origin and sexual orientation.

We come from every corner of every borough, old and young, disabled and temporarily able bodied, some with a little money and some with next to none. But we all came tonight because we care—about walking the streets without fear of force or violence; about having an affordable home and sending out kids to a decent school; and about living in peace with dignity and respect.

So look around you—look at your neighbor, look at all your neighbors. You are looking at the people who can change this City.

We are a proud and powerful people. We came here in droves, from around the world, seeking freedom and opportunity.

But the promise of New York has not always become the reality of our lives here in our hometown.

The poverty of the old world often gave way to the deprivation of the new world, for the streets were not paved with gold.

And the official discrimination of the old south was replaced by the unofficial—but sometimes more painful—prejudice of the north; for too long now, the dream deferred has seemed like a dream denied.

Too often, African-Americans came up from the red clay hills of Georgia, the fertile fields of Alabama and the Mississippi Delta, just to be ghettoized and victimized in Harlem, Bed-Stuy and South Jamaica.

And for Latinos, life in East Harlem and the South Bronx was sometimes little better than the lives they left behind in San Juan and Santo Domingo.

Some say this society has done all it can—but I say we've only just begun our long march for freedom.

Just a generation ago, legal segregation was still the law of this land.

Many Asians had been in this country, building and working for a long, long time, yet Koreans and other Asians were still excluded by quotas.

And the Ku Klux Klan and other haters were spreading their poison against African-Americans, Jews and Catholics alike.

So today, we have come a long way, but racism is still with us—and the lessons taught to us by Doctor Martin Luther King, Junior remain as valid and viable today as they were a generation ago.

When the cynics say there is nothing that can be done, let us remember Rosa Parks—and let's recall the power of principle.

And when we hear the voices of despair who say there's nothing more we can do about poverty and injustice, let's remind ourselves that on his last day on earth, Doctor King walked the picket line with sanitation workers—so likewise, let's renew our commitment to coalition.

Here tonight, in this hallowed hall, let us rededicate ourselves to the values of justice, opportunity and caring; let's renew our commitment to the spirit of struggle; and let's open a new front in the old fight for decency, tolerance and respect.

When a few shout out words of hate, we can drown them out with acts of hope.

When the bigots resort to violence, we can contain them and condemn them with our unity.

And when the instigators seek to turn us against each other, we can respond by turning to each other—and coming together to fight our common foes: cracks and crime; poverty, prejudice and pollution.

That's what brings us together: the shared sentiments and combined convictions of people squirming and struggling through the hard passages of urban life.

My friends, these are tough times in our City. The economy, of the nation and the region, barely sputters along. Crack and

AIDS have combined to create hardships like we've never seen before. And for ten long, hard years now, the national government has acted as if this City—and all cities—were on another planet.

I believe in foreign aid—and I support it for democracies around the world. I just wish we could get a little bit of it here in New York.

I promise you all, again here tonight, that I will devote every ounce of energy I have to confronting these challenges. But let me tell you, things will not get better overnight. And none of us will get ahead if we're fighting each other over crumbs falling from the the table of opportunity.

We are witnessing the children of the immigrants and the oppressed fighting each other as never before. The powerless are trying to prove their power by hurting those who are just as powerless.

It must stop—and it must stop now.

It matters not whether you are African-American, Italian, Puerto Rican, Dominican, Haitian, Jewish, Greek, Korean, Vietnamese, Indian, West Indian, native American—for no matter where you come from or what's been done to you—you have no right to lash-out against others.

Each of us must ask ourselves, our families and our own communities: Why do we fear people who are different—people we don't even know? Why do we use words and names that hurt when we've felt that sting ourselves?

No one among us can say we're immune; we're all in this together.

Each of us could be a victim; some of us—like Yusuf Hawkins—are victimized just because of the color of our skin, and we will never forget that those who killed him are guilty of racism in the first degree.

We must not allow his sacrifice to be forgotten.

So each of us must search for solutions.

There are a lot of communities in this City—and within each community there are a lot of conflicts.

I'll be walking the streets, meeting with you in your neighborhood schools, churches and synagogues. But I can't come to every community and I can't intervene in every conflict. And those who say that my presence is the solution misunderstand the problem.

Bias and bigotry wear a thousand different faces, in a thousand different places. And I look at each incident—each attack on decency, justice and the rule of law that protects us all—and I wonder where people learn to hate.

I'm tired of hatred. I've seen too much of it—too much pain and too much suffering—and I'm sick of it.

So let me be blunt: I need your help; I need you to be my eyes and ears, and my arms and legs in the community; I need you to be my companions in this campaign for respect and unity.

And I ask you to carry this spirit, the spirit of New York, of tolerance and togetherness, back with you to your neighborhoods.

When you're back home, I hope you will continue this campaign—by speaking with your family, your neighbors, and your colleagues.

Get involved—and stay involved.

Let's get to work fighting to bring infant mortality down and to get literacy and opportunity up.

Help out with your local anti-crime group—or work with me to make our schools community centers so kids have a place to go besides the evil world held out by the drug dealers.

Give me a hand—by speaking-up and speaking-out for new homes for our people, not new homeports for nuclear battleships.

Do what you can, but find something to do each day—just one thing—everyday, to spread the spirit.

Reach out to a neighbor or a local merchant to whom you've never spoken. Find out where he comes from; find out who she is. Give them a blue ribbon. Let your guard down—and let your neighbors into your life.

Find one group in your neighborhood—or one more group—and join. And whether it's your block association or parents association, your tenants' group or community group, go to the next meeting, stand up and say: let's fight bigotry and teach tolerance; let's band together to demand justice and to make our City better; and ask, "what can we do?"

Just say it, for these simple words—repeated time and time again—will unleash the energy and ingenuity bottled up inside all of us who want life to get better.

For there is much you can do.

Organize forums for people of different cultures and communities to come to know one another, as people, as individuals.

Write to your State Senator to urge passage of the bias-related violence bill that includes protection for gays and lesbians. Remind them those who killed James Zappalorti because he was gay are just as culpable and just as despicable as those who killed Michael Griffith because he was African-American, those who assaulted Victor Ramon because he was Latino, and those who killed Israel Rosen because he was a Hasidic Jew.

And when school is out and kids are on the streets and in the parks, make it your business to know what they're up to. Find something for them to do; talk with them; and give them a job or a chore if you can. We must not let them go to waste, for we must not lose our most precious opportunity.

I believe we have it within our power, in this City, in this decade, to transform our diversity from a source of division into a beautiful blossom of creativity, imagination and strength.

This is the time to come together—to create a wave of energy and unity so powerful that it can wash away the hate and the hurt.

So right here, right now, let us resolve to join in a permanent campaign to bring our City together.

Let us locate the love of life and love for this City that lies within each of us—and let's focus it and channel it to build a better City.

Together, let's follow our hopes and not our fears—because together, we can change the world.

Together—all together—we can spread the spirit of respect, of tolerance and unity into every corner of this City.

Tonight is just the start. We'll be talking and working and marching together for a long time to come. But someday, we will look back on this day, and we'll say that this was the time when New York woke up, turned around, and set out again to become the best place on earth.

Thank you.

God bless you.

And keep the faith.

SUPPORT FOR CRIME CONTROL AND REFORM

Mr. COATS. Mr. President, I am pleased to be a cosponsor of S. 1971, the Violent Crime Control and Criminal Procedures Reform Act, introduced by Senator THURMOND. This omnibus package of legislative initiatives takes seriously both the prevalence of violent crime in America and the necessity for punishment. It incorporates criminal law and procedural reform measures called for by President Bush and contained in his national drug control strategy and crime control package.

Enactment of this legislation is strongly supported by the Department of Justice. In the words of Attorney General Thornburgh:

> Its adoption would be a fundamental contribution both toward enhancing the public's security against crime and improving the effectiveness of the Federal criminal justice system.

Let me mention the key provisions of S. 1971. Title I establishes constitutional procedures for implementation of the Federal death penalty for certain capital crimes and authorizes the death penalty for additional aggravated crimes, such as attempts to assassinate the President, hostage taking where death results, and genocide. It embodies most of the provisions of S. 32, which was recently reported by the Senate Judiciary Committee, but does not include the language of the so-called Racial Justice Act, and it is almost identical to legislation passed by the Senate in 1984 by a vote of 63 to 32. I shall discuss the death penalty provision at greater length later.

Title II reforms current habeas corpus procedures to promote finality of litigation and speedier criminal convictions in State courts. This provision incorporates the recommendations of the Powell commiteee which was formed in June 1988 by Chief Justice Rehnquist to look into the problems of delay and the lack of finality in capital cases. This provision was contained in similar legislation which passed the Senate in 1983 by a vote of 67 to 9. I shall return to this reform shortly.

Title III codifies the good faith exception to the exclusionary rule which has been sanctioned by the Supreme Court of the United States. Unfortunately evidence has been excluded at trial in many cases involving violent crime and drugs because a law enforcement officer mistakenly and innocently violated search and seizure rules, preventing conviction of known criminals. The Supreme Court has recognized that the exclusionary rule should not be used when the officer has acted in good faith. S. 1971 will close this legal loophole which has allowed violent criminals and drug offenders to go free on a technicality, so

that henceforth evidence of guilt will be admissible whenever the State shows that the arresting officer acted in good faith compliance with the fourth amendment.

Title IV strengthens the penalties for drug-related crimes and other violent crimes involving the use of firearms. This provision permits consideration of pretrial detention for certain offenses involving firearms and explosives, provides mandatory revocation of supervised release for possession of a firearm, and increases the penalties for giving false information in connection with the acquisition of a firearm.

Title V provides for mandatory drug testing of Federal defendants on postconviction release.

Title VI, which incorporates the provisions of S. 326 which earlier passed the Senate as an amendment to antidrug legislation, will enable the prosecution and imprisonment of persons who corrupt the administration of government at the Federal, State, and local levels.

Finally, section VII would facilitate the use of officially sanctioned undercover investigations, including sting operations, to combat crimes of trafficking in, or receiving stolen or counterfeited property.

Mr. President, I wish to comment briefly on two very important sections of S. 1971 which I believe are critical to the success of our wars on drugs and crime in America.

The Thurmond bill provides an enforceable Federal death penalty for a number of aggravated crimes, most of which result in the taking of innocent life. Specifically it would establish the necessary constitutional procedures for implementation of the death penalty for those Federal crimes which curently authorize a death sentence, namely, treason, espionage, murder, certain crimes involving explosives where death results, wrecking trains where death results, and air hijacking where death results. In addition, the legislation authorizes the death penalty for several additional serious crimes—murder by a Federal prisoner serving a life sentence, the taking of hostages where death results, murder for hire, murder in aid of racketeering, genocide and certain Presidential assassination attempts.

Let me add personally I do not believe that capital punishment should ever be imposed simply out of utility or vengeance. It must be imposed only when an innocent life is deliberately taken. Thus, it may be an appropriate penalty for certain violent crimes resulting in the murder of innocent victims. That is why I have voted in the past for the death penalty for drug-related murder, but not for peacetime espionage where no death results. Accordingly I am troubled by imposition of death for attempts to kill when no murder occurs. In S. 1971, however, the death penalty would be provided only if the defendant is found guilty beyond a reasonable doubt of an attempt to assassinate the President which results in bodily injury to the President or comes dangerously close to causing his death.

I am convinced that this crime control bill provides the necessary safeguards and complies with the constitutional procedures approved by the Supreme Court to ensure that capital punishment will be imposed only under very limited circumstances involving the most violent and heinous of crimes. For instance, the death penalty may be imposed for specific Federal aggravated offenses pursuant to a sentencing hearing only if it is determined that the death penalty is justified. In homicide cases the jury must find at least one threshold requirement regarding the defendant's state of mind at the time of the offense; if not, the death penalty cannot be imposed. The bill prohibits execution of a person under 18 years of age at the time of the crime—versus 16 years under current law. It also bars imposition of a death sentence on a pregnant woman and on mentally retarded persons, regardless of the nature of the crime. And a State employee will be excused from participating in an execution if such participation is contrary to his or her religious or moral beliefs.

The bill also sets forth the statutory mitigating and aggravating factors to be considered by the jury or judge in determining whether a sentence of death is justified. For instance, the Government has the burden of proving beyond a reasonable doubt the aggravating factors, while the defendant must show any mitigating factor by a preponderance of the evidence, and if the jury is not unanimous in finding a particular aggravating factor, the death penalty cannot be imposed. The jury must then decide whether aggravating factors outweigh mitigating factors to justify a death sentence, but regardless of such a finding, the jury still has the discretion to refrain from imposing the death penalty and must be so instructed. If the defendant appeals his death sentence, the appellate court must consider the entire record including trial evidence, information submitted, and the procedures employed during the sentencing hearing, and special findings returned at sentencing as to aggravating factors.

Thus, S. 1971 clearly provides strong protections and guarantees for the Federal criminal defendant convicted of an offense for which the death penalty is available. I am persuaded that this legislation contains sufficient procedural safeguards which will prevent arbitrary and capricious imposition of the death penalty for capital crimes.

Clearly, the death penalty provisions of S. 1971 are far superior to those contained in S. 1970, the Biden bill. Title I of that bill incorporates the language of the so-called Racial Justice Act, based on the unsubstantiated claim that the death penalty has been administered in a way that shows a significant risk of racial discrimination to both defendants and victims of crime in violation of the Constitution for which current legal safeguards are inadequate.

The Racial Justice Act in the Biden bill stipulates that capital punishment cannot be used whenever a death sentence "furthers a racially discriminatory pattern," and provides that, to establish a prima facie case of such a pattern, a petitioner must merely offer evidence that there is a disproportion between the number of persons in a racial group who are sentenced to death or executed and the number of persons from that racial group in the aggregate of persons who are arrested for, charged with or convicted of crimes that are punishable by death under any circumstances. Similarly, the petitioner need only show that there is a disproportion between the number of persons in a racial group who constitute the victims of crime for which the death penalty is actually imposed and the number of persons in that racial group who make up the class of persons against whom crimes are committed that may be punished by death under any circumstances. To rebut such a prima facie case, the Government would have to establish by clear and convincing evidence that "identifiable and pertinent nonracial factors persuasively explain the observable racial disparities comprising the pattern."

The Racial Justice Act would also require every jurisdiction that authorizes capital punishment to set up an elaborate central data bank on racial factors and other information related to all persons charged with or victims of crimes in death penalty cases. The act's provisions would apply retroactively to all defendants subject to the death penalty, whether or not they raised any claim of racial discrimination or that claim was raised and rejected by the court. Finally, the act mandates the appointment of counsel and provision of other services to any indigent person raising such a claim in a death penalty case.

Aside from the unjustifiable claim that the death penalty has been applied in a manner that unconstitutionally discriminates against certain racial groups—a claim rebuttable by the Bureau of Justice's 1988 statistics showing that 66.2 percent of those sentenced to death were white while whites constituted only 50 percent of those who commit murder—the Racial Justice Act is fundamentally flawed and wrong-headed in that it would require imposition of the death penalty

purely on the basis of race and statistics.

The Supreme Court has already rejected this approach to racial justice in the courtroom in the case of *McCleskey* v. *Kemp*, 481 U.S. 279 (1987). Justice Powell, writing for the majority, held that the question of whether a death sentence was unconstitutionally affected by racial discrimination must be determined by evaluating the fairness of the procedures applied in the particular case in question. The Court specifically rejected the argument that deviations from statistical racial proportionality in the imposition of past death sentences could provide a basis for invalidating the death penalty in cases which otherwise complied with the requirements constitutionally imposed by the Court's earlier decisions. The Constitution requires highly individualized determinations based on the moral culpability of individual defendants, not on a comparison of racial proportionality. In the words of Justice Powell:

> Each jury is unique in its composition, and the Constitution requires that its decision rest on consideration of innumerable factors that vary according to the characteristics of the individual and the facts of the particular capital case. Id. at 294.

The only effective way to achieve the goal of a nondiscriminatory system of sentencing in capital cases is to adhere to the strict requirements for fairness and due process that have been articulated by the Supreme Court in a series of capital punishment decisions.

I agree with Senators THURMOND, HATCH, and other members of the Judiciary Committee who stated that the Racial Justice Act "imposes an unworkable and unconstitutional system of statistical sentencing." As Attorney General Thornburgh observed, the Racial Justice Act:

> relies on dramatically incorrect factual assumptions, employs constitutionally impermissible mechanisms, and would inject race into the prosecution of death penalty cases to an extent unprecedented in the United States.

By mandating that a criminal justice system not susceptible to mathematical predictability produce, nonetheless, mathematically predictable results, this act would effectively abolish capital punishment.

Under the Thurmond and administration proposals, the death penalty will be administered in a way that strengthens racial neutrality and prevents discrimination. The jury must focus on the existence and weight of specific aggravating and mitigating factors which do not allow race or other such factors to be considered. S. 1971 specifically requires an instruction to the jury that the race, religion, national original, and sex of the defendant or victim must not be considered. Moreover, each juror must certify that these factors did not enter his or her decision regarding the death sentence.

By contrast, the death penalty provisions of the Biden bill would make any death penalty unworkable—not just at the Federal level but in State courts as well. That is not just my view; it is also the opinion of the Attorney General. Senator GRASSLEY of Iowa, a member of the Senate Judiciary Committee which reported out that act on a close vote—himself a strong supporter of the death penalty—voted against the death penalty bill for that reason alone.

Indiana is one of 37 States which impose the death penalty for certain crimes. The Biden bill would effectively nullify the death penalty in my State. My fellow Hoosiers and the Indiana d legislature have spoken on this issue, and I do not believe that their collective judgment should be nullified by the Congress.

The other issue remedied in S. 1971 which I wish to address is habeas corpus reform. I am not referring to the writ of habeas corpus referred to in the Constitution which guarantees to persons detained prior to conviction the right to know the charges on which they are held. I am speaking of the statutory remedy afforded to State prisoners to challenge their convictions or sentences by petition filed in Federal district court. Under section 2254, of title 28, United States Code State prisoners have a virtually unlimited right to challenge their convictions, using habeas corpus petitions to relitigate their cases over and over again, throughout their prison terms. Because the prisoner has nothing to lose and everything to gain from prolonging this litigation, it has become evident that the habeas corpus remedy has been abused.

Let me cite examples of the kind of abuses common to habeas corpus petitions by Federal prisoners. One death row inmate, sentenced over 10 years ago for murdering four innocent persons, for which he does not deny guilt, recently received a stay of execution by the Supreme Court of the United States. This marked the fourth time his case had been before the Supreme Court. You may recall the horrible case in Illinois of John Wayne Gacy who was convicted of murdering 33 young men, including several Indiana youths. Although it has been 13 years since he was sentenced to death, his appeals go on and on. It is conceivable that he will be able to delay the carrying out of his sentence for at least 20 years.

These are by no means isolated instances of using habeas corpus to prevent the speedy execution of justice. Unless Congress acts soon to remedy this abuse, some of the most notorious criminals who have been convicted of most heinous crimes in our history could die of natural causes before their adjudicated penalties are executed.

Title II proposes amendments to various sections of chapter 153 of title 28 of the United States Code and a related Federal rule of appellate procedure in order to eliminate habeas abuses which have had the effect of overturning State death penalty convictions and nullifying State capital punishment laws. These amendments contain the legislative recommendations of the Ad Hoc Committee on Federal habeas corpus in capital cases chaired by former Associate Supreme Court Justice Lewis Powell which thoroughly addressed the problem of habeas corpus review of capital cases in which the prisoner had or had not been offered counsel.

The Powell committee recommendations were aimed at achieving one goal. In the words of its chairman:

> Capital cases should be subject to one complete and fair course of collateral review in the State and Federal system, free from the time pressure of impending execution, and with the assistance of competent counsel for the defendant. When this review has concluded, litigation should end.

I agree with this goal. We need to reform habeas corpus procedures so as to minimize Federal judicial interference with State capital convictions and at the same time ensure finality of litigation.

This proposal would allow a State to bring capital litigation by its prisoners by providing competent counsel for inmates on State collateral review. Participation in these new procedures would be optional with the States. Because it is optional, the changes would cause minimal intrusion on State prerogatives. But for those States concerned with delay in capital litigation, the Powell committee believed that the procedural mechanisms would furnish an incentive to provide the counsel that are needed for fairness.

This proposal also provides for a 6-month period within which a Federal habeas petition must be filed. This 6-month period begins to run only upon the appointment of counsel for the prisoner—or the prisoner's refusal of the offer of counsel—and is tolled during the pendency of all State court proceedings. In light of the provision for counsel and the exhaustion requirement that the prisoner's Federal petition contain the same claims made in the State petition, 6 months is clearly adequate time for the development and presentation of claims by the prisoner. Moreover, a further extension of time is available for cases where good cause is shown. This change would prevent petitions in cases in which the passage of time has made a reliable adjudication of the petitioner's claim or retrial of the petitioner difficult or impossible.

The proposal also provides for an automatic stay of execution which is to remain in place until Federal habeas proceedings are completed or until the prisoner has failed to file a petition within the allotted time. This automatic stay would ensure that habeas claims not be considered by a court under the time pressure of an impending execution. It should eliminate the rush litigation over stay motions that is troubling for both litigants and the courts.

Federal habeas proceedings under these amendments would encompass only claims that have been exhausted in State court. With the provision for counsel, there should be no reason for the defendant's failure to raise claims in State court. The change in current practice under this bill is the provision for immediate presentation of new claims in Federal court in extraordinary circumstances. Moreover, subsequent and successive Federal habeas petitions can no longer be the basis of a stay of execution or grant of relief absent extraordinary circumstances and a colorable showing of factual innocence.

I believe that the amendments provided in the Thurmond bill will ensure fairness and promote finality in habeas corpus proceedings. In the words of Associate Justice Powell:

> The fundamental requirement of a criminal justice system is fairness. In habeas corpus proceedings fairness requires that a defendant be provided a searching and impartial examination of his claims. Fairness also requires that if a defendant's claims are found to be devoid of merit after such examination, society is rightfully entitled to have the penalty prescribed by law carried out without unreasonable delay.

This proposal fills a gap that now exists by encouraging the appointment of competent counsel in State habeas corpus or collateral proceedings—the same right that is now available to every capital defendant at State trial and appeal and in Federal habeas corpus proceedings. Moreover, this proposal assures that upon completion of State proceedings a defendant will have one opportunity to have his claims reviewed carefully by the Federal courts. Thereafter, assuming no infirmity is found in the conviction and absent exceptional new developments, judicial proceedings will be at an end.

In summary, this legislation balances the need for finality in death penalty cases with the requirement that a defendant have a fair examination of his claims. Therefore, if the conviction and sentence are found to be appropriate, judicial proceedings will be at an end, absent any exceptional developments in the defendant's case.

The effect of the Thurmond amendments will be to preclude granting relief with respect to matters that have been fully and fairly adjudicated in State proceedings. These changes would enhance the finality of State criminal adjudications and avoid duplicative litigation of claims that have already been adequately considered and decided.

These amendments also make clear that a Federal court can deny a habeas petition on the merits without requiring prior exhaustion of State remedies. This change would avoid a waste of judicial resources when a prisoner presenting a frivolous petition is sent back to the State system to exhaust State remedies.

By contrast, the habeas corpus provisions contained in title II of the Biden bill would not remedy the abuses that have led to the endless litigation and relitigation resulting from the present system of repetitive habeas corpus review that has undermined the capital punishment laws of Indiana and other States. In fact, I believe that S. 1970 would increase the number of habeas cases. Under section 2257(c)(3) a State prisoner on death row can receive a stay of execution and obtain another review of his conviction and sentence in Federal courts if he alleges that such relief is "necessary to prevent a miscarriage of justice." No wonder retired Associate Justice of the Supreme Court Lewis Powell and the chief judges of both the Fifth and Eleventh Circuit Courts of Appeal have testified that the enactment of title II of S. 1970 will result in more, not fewer habeas corpus cases.

Justice Powell also testified concerning the deleterious effect that would result should the procedural default rule in S. 1970 be enacted. The Biden bill would overrule the leading precedent in *Wainwright* v. *Sykes*, 433 U.S. 72 (1977), which held that a State prisoner could not raise in Federal court a claim which he is legitimately barred from raising in State court unless he can show good cause for the default which resulted in prejudice to his case. This is a reasonable rule, which would allow every genuine case of constitutional error to be heard, while reducing the number of unnecessary habeas corpus cases.

The Ad Hoc Committee of the Judicial Conference on Federal Habeas Corpus in Capital Cases—the Powell committee—in its report of August 23, 1989, specifically recommended restricting successive habeas corpus petitions to those involving questions of guilt or innocence. This recommendation corresponded to the opinion in *Kuhlmann* v. *Wilson*, 477 U.S. 436, 454 (1986). However, S. 1970 would overrule the Supreme Court and expand current law by permitting any petition alleging a "miscarriage of justice" to be reviewed.

Moreover, title II has no effective time limitation. Although the Biden bill, in section 2258(1), proposes to limit the availability of Federal habeas corpus relief to the first 365 days after the prisoner has exhausted all his available State court remedies, there is a significant exception which destroys the effectiveness of such a rule. Whenever the State prisoner seeking review of a capital sentence files a petition for certiorari in the Supreme Court—and he can file as many of these petitions as he needs—the statute of limitations is tolled.

Finally, S. 1970, in section 2260, would create an absolute right of appeal from adverse rulings on habeas petitions. Under current law, most unsuccessful petitioners may appeal the dismissal of their habeas petitions only when the district judge issues a certificate of probable cause, asserting that the legal issues raised are not entirely frivolous. This change would further aggravate the current case overload being experienced by the Federal courts of appeals.

The point is: Regardless of one's personal views concerning the effectiveness or justice of the death penalty, so long as a State and its citizens believe that capital punishment is appropriate and it is that State's law, it should be imposed in a timely way according to constitutional procedures. Permitting the appeals process to be dragged out for years and years, as too frequently happens under current habeas corpus procedures, is bad public policy for it makes a mockery of the criminal justice system. Justice delayed is justice denied. The Thurmond bill remedies this situations; the Biden bill cannot.

For the reasons I have discussed, I consider the Thurmond crime control package of reforms in S. 1971 to be far better than the Biden proposals in S. 1970. Whatever reservations I may have concerning the death penalty, I regard the urgency of crime control legislation to be of primary importance if we are to address seriously the crime and drug problems in our Nation.

We have read the awful statistics and seen the death and terrible damage that crime, violence, and drugs have done to our social fabric. We all realize that action is long overdue. We must act now to provide a comprehensive death penalty with constitutional procedures and protections, increase the penalties for those who use firearms in the commission of crime, and reform those criminal procedures which result in delay and injustice within our criminal justice system. I call on my Senate colleagues to join me in swiftly passing effective, tough, and fair crime control legislation. The law-abiding citizens of our Nation deserve and demand it.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is closed.

OMNIBUS CRIME BILL

The PRESIDING OFFICER. The Senate will resume consideration of S. 1970, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

The Senate resumed consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator METZENBAUM be recognized to offer an amendment relative to the banning of assault weapons; that there be 2 hours of debate equally divided on his amendment; that upon the expiration or yielding back of time, the Senate, without any intervening action or debate, vote on a motion to table the Metzenbaum amendment; that if the motion to table the Metzenbaum amendment is not successful, there be no limitation on time or on amendments to this amendment; that upon the disposition of the Metzenbaum amendment, Senator HATCH be recognized to offer an amendment to strike the language in the bill relating to assault weapons; that there be 3 hours of debate equally divided on the Hatch amendment; that upon the expiration or yielding back of time, the Senate proceed to vote, without any intervening action or debate, on the Hatch amendment; that no other amendments or motions be in order prior to the disposition of these two amendments; and that the agreement be in the usual form with respect to division of time.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, and I shall not object, I think it is precisely the request Senator MCCLURE made earlier. We cannot contact him now. He is in the middle of a speech. We have been on the bill almost a day and nothing has happened. This does reserve the right to table. I assume Senator MCCLURE can make that motion to table if he wishes. So I have no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation. I will advise Senators, therefore, that both of these matters will be disposed of today so that there will be at least these two rollcall votes today. In the meantime, discussions will be continuing on efforts to resolve the remaining issues on the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio [Mr. METZENBAUM] is recognized.

AMENDMENT NO. 1676

[Purpose: To define the term "assault weapon" and to ban the sale of large-capacity magazines]

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1676.

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

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

The amendment is as follows:

On page 49, between lines 4 and 5, insert the following:

"(J) Springfield Armory SAR-48 (.308 caliber) and its variations;

"(K) Cobray SWD 9mm in any of its variants;

"(L) Mossberg Model 500 Bullpup 12 shotgun;

"(M) Ruger Mini-14/5F semiautomatic firearms;

"(N) Feather AT-9 centerfire semiautomatic in 9mm;

"(O) AP 9, 9mm assault pistol;

"(P) Thompson Ordnance M1, semiautomatic in .45 caliber;

"(Q) Franchi SPAS 12 shotgun;

"(R) Heckler and Koch HK-94 pistol;

"(S) Austrian Automatic Arms SAP pistol;

"(T) F.I.E. Spectre P. pistol;

"(U) Sterling Mark 7 pistol;

"(V) all other models by the same manufacturer with the same design which may have slight modifications or enhancements including a folding stock; adjustible sight; case deflector for left-handed shooters; left-handed fire adapter; shorter barrel; wooden, plastic, or metal stock; large size magazine; different caliber provided the caliber exceeds .22 rimfire; bayonet mount; tripod or bipod mount; or flash suppresser; and

"(W) any other firearm with an action design identical or nearly identical to an assault weapon specified in this pargraph which has been redesigned from, renamed, renumbered, or patterned after one of such specified assault weapons regardless of the company of production or country of origin, or any other firearm which has been manufactured or sold by another company under a licensing agreement to manufacture or sell an identical or nearly identical assault weapon as those specified in this paragraph, regardless of the company of production or country of origin."

SEC. . BAN ON SALE OF MAGAZINES AND BELTS HOLDING GREATER THAN 15 ROUNDS OF AMMUNITION.

(a) BAN.—Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(s)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive or possess a large-capacity detachable magazine or large-capacity ammunition belt, which can be employed by a semiautomatic firearm.

"(2) This subsection does not apply with respect to—

"(A) any transfer, importation, transporting, shipping or receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof; or

"(B) any transfer, transporting, shipping, receiving or possession of such magazine or ammunition belt that was lawfully possessed before the date of this subsection, except that no federally licensed firearms dealer shall transfer such magazine or ammunition belt."

"(3) For purposes of this subsection—

"(A) The term 'large-capacity magazine' means a box, drum or other container which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or a magazine which can be readily converted into a large-capacity magazine. Such term shall not include any magazine that has been permanently modified so that it will not hold more than fifteen rounds of ammunition.

"(B) The term 'large-capacity ammunition belt' means a belt or strip which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or an ammunition belt which can be readily converted into a large-capacity ammunition belt. Such term shall not include any ammunition belt that has been permanently modified so that it will not hold more than fifteen rounds of ammunition.".

(b) PENALTY SECTION.—Section 924 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(1) Whoever violates the provisions of this Act relating to large capacity detachable magazines and ammunition belts shall be fined not more than ten thousand dollars, imprisoned not more than two years, or both.".

Mr. METZENBAUM. Mr. President, the amendment that I have offered is an effort to strengthen the assault weapons provisions of the crime bill. The amendment contains provisions that were part of my assault weapons bill, S. 386, which I introduced in February of last year along with Senators CHAFEE, PELL, CRANSTON, WIRTH, GLENN, KENNEDY, DODD, MOYNIHAN, ADAMS, LAUTENBERG, and KERRY.

What prompted me to introduce that bill was a tragic event that took place on January 17 of last year on a Stockton, CA, schoolyard. It was recess time at Cleveland Elementary School. Four hundred children were playing in the schoolyard when a deranged man opened fire with an AK-47 assault rifle. In less than 2 minutes, he fired over 100 rounds. A round is a bullet. Each round is a bullet.

The tragic result was 5 children dead and 30 wounded. No reason; no logic; no explanation; no cause. The gun used by Patrick Edward Purdy on that day was not a hunting rifle designed for sportsmen but a combat weapon made in China for use by Communist troops.

Purdy carried enough ammunition to arm a small army. He had two large magazines, 75 rounds; the other, 35

rounds. Prior to that day, I admit, I had never even heard of an AK-47. But as my colleagues know, I have long been concerned with the ease with which criminals and mentally ill people can obtain firearms in our society.

I felt that perhaps something should be done, and I began to look into the issue of these assault weapons. I conferred with my friends in the law enforcement community since I had already relied on their expertise in matters relating to firearms legislation. They told me how the problem of assault weapons was not new to the police officer on the street. For some time, the police have faced criminals, particularly drug dealers, who are heavily armed with these weapons of war. These assault weapons in the hands of criminals put our law enforcement officers at a great disadvantage in any exchange of gunfire.

In 1986, eight FBI agents in Miami became involved in a gunfight with two bank robbers, one of whom was armed with a Ruger mini-14/5F assault weapon. The result was two agents killed, five wounded before the gunman was fatally shot.

Two years ago in Los Angeles, a police officer was shot and killed by a gang member armed with an AR-15, an assault weapon similar to the U.S. Army's M-16. Three years earlier, another Los Angeles police officer was killed when ambushed by a gunman armed with a MAC-10.

And in 1988, a Dallas police officer was killed by a gunman armed with a TEC-9. In 1988, in San Diego, one deputy sheriff was killed and two were seriously wounded in a shootout with a lone gunman armed with an AK-47.

As the Stockton massacre frankly illustrated, police officers are not the only victims of assault weapon violence. Last year in Los Angeles, a 2-year-old boy and a teenager were killed when a gunmen using an assault weapon fired on a crowd from a speeding car. Six people were killed in a Florida shopping center when a gunman opened fire with a Ruger mini-14/5F. And last September, a disgruntled employee, being treated for mental illness, entered a Louisville, KY, printing plant armed with an AK-47, open fired and killed 7 of his coworkers and wounded 13 others.

My friends in the Senate, in every instance when you saw this on the nightly TV and your wife saw it and your children saw it, you were distraught and they were distraught and the American people were concerned. They said, "Why does this need to happen? Why should these police officers be mowed down? Why should children in a schoolyard be killed for no purpose at all? Because somebody has a gun that can shoot so many bullets so rapidly?"

Today we are debating this issue, as to whether or not we ought to include more assault weapons to be banned than those that are presently banned as imports into this country.

While I studied this issue and learned about it, I came to learn that while thousands of these weapons are imported into the United States each year, about 75 percent of all assault weapons in this country are made in this country. The police groups I conferred with were clear and unanimous in their recommendations—ban assault weapons. And why not. They are concerned about their lives each day, each night, they go out there to protect us. If the drug dealer or the criminal, whatever his activities may be, is armed with more weaponry than the police officer, the police officer all too often has to pay with his life.

Perhaps Los Angeles Police Chief Daryl Gates said it best when he told the Senate Judiciary Committee, "I think it is a nonpartisan issue," said he, "I really do. And the police of America are pleading with you. I mean we are pleading with you. My guys are pleading with you. We need something done and we are asking you to get it done."

I remember the day he testified. He was being pressed by one of my colleagues on the opposite side of the aisle, and I remember he went out of his way to say to my colleague on the other side of the aisle, the other political party than mine, "I'm a member of your party. I agree with you most of the time, and I need you to agree with me on this issue." He made it very clear that it was not a Democrat or Republican issue. He was, as a Republican, pleading with us, pass this legislation.

While drafting my bill, I was hearing some people argue that these assault weapons were suitable for hunting. I have never been opposed to people owning firearms for hunting, sport shooting. There are a lot of hunters in Ohio, and this amendment would not deny them or any other sportsman the right to hunt that they have today.

I want to emphasize that. There is nothing in this amendment that would take away any sportsman's right to hunt or any sportsman's right to go to a gallery and have target practice.

I had a member of my staff contact a number of State game wardens and guns stores throughout the country to be certain that I was right in what I just represented to you, to see if hunters have any use for these assault weapons and large magazines. I learned that most hunters use bolt action or lever action guns and that those hunters that do use semiautomatic rifles do so with magazines of between five and eight rounds. In fact, many State laws limit the number of rounds that you can have in the magazine while hunting.

I remember I told you that the ones that Purdy had, one magazine contained 70 rounds and the other contained 35 rounds. So much for the argument that sportsmen would be hurt by a ban on assault weapons.

But even when I received that information, I thought there was one more group I would consult while drafting my bill. I contacted the National Rifle Association. I said to the National Rifle Association I was drafting legislation on assault weapons, and I invited their input. They declined, saying that they would oppose any effort, any effort, to limit the availability of assault weapons.

I have been on a number of programs with spokespersons for the National Rifle Association, and in each instance I have said to them I am prepared to negotiate; I want to be reasonable. If you can tell me there is something wrong with the language of my amendment or my bill, let us work it out together. I said my door is open. They never came through that door. So I went ahead and introduced my bill with the support of the law enforcement community, and that bill is pretty much the essence of this amendment. I am proud to stand before you and say that the law enforcement community supported my bill and supports the amendment that is on the floor today.

We held hearings on my bill. We heard from police officers and victims of shootings and from the NRA. Then the NRA started their campaign of lies and distortion against the bill and me, too. But not all NRA members were opposed to an assault weapons ban. Former President Reagan, a member, said, "Semiautomatic military weapons should not be sold to sportsmen or the public in general." Our former colleague, Senator Barry Goldwater, who has appeared in magazine ads for the NRA, said, "I've never used an automatic or semiautomatic for hunting. There's no need to. They have no place in anybody's arsenal. If a SOB can't hit a deer with one shot, then he ought to quit shooting." Even President Bush, an NRA member, realized that something had to be done, and he banned the importation of foreign-made assault weapons.

When that occurred, I praised the President. I thought he had joined the team and understood the problems of assault weapons for the law enforcement community in this country. I praised him for taking the first step banning the importation of assault weapons. Then I waited for him to take the logical next step, banning assault weapons made in this country. But I waited and I waited and I waited. Nothing happened.

The President has refused to support legislation that would ban the sale of assault weapons made in this

country. Frankly, I say to my colleagues in the Senate, that position defies logic. How can you possibly say you are going to permit the manufacture of assault weapons in this country, permit them to be exported, but ban the importation of those same weapons, or similar ones? Seventy-five percent of the assault weapons used in this country are made in this country.

So, Mr. President, how can you possibly explain your position, unless it was some kind of a trade matter? But it was not in this instance. He mentioned nothing about that. How can you explain banning the importation of foreign-made assault weapons and not be willing to ban those made in this country? It does not make sense. It is illogical. And the American-made ones are every bit as deadly.

Any police officer will tell you that with an imported assault weapon or a domestic assault weapon, you are just as dead one way or the other.

Shortly after the President announced his import ban, my colleague on the Judiciary Committee, Senator DECONCINI, introduced his assault weapons bill. That bill did not go as far as mine did. It covered fewer weapons and did not address the problem of large magazines.

Mr. THURMOND. Mr. President, will the distinguished Senator yield for a half a minute?

Mr. METZENBAUM. Without losing my right to the floor.

Mr. THURMOND. Mr. President, I am now due at the Armed Services Committee in a meeting. I have some other meetings this afternoon. I am going to request that the able Senator from Utah handle this amendment and the next amendment, the two amendments on firearms, and ask him to take my place.

Mr. METZENBAUM. Mr. President, before my colleague from South Carolina leaves, I want to say to him that I hope he might wait 5 or 7 minutes, because I wanted to quote some words of his in connection with this issue to which I am now addressing myself.

Mr. THURMOND. I will stay for that if it will not take over 5 or 7 minutes.

Mr. METZENBAUM. I will not.

Even the DeConcini bill was claimed to be a compromise; it did not change the NRA position. The NRA opposed his bill as strongly as it opposed mine.

To my colleagues, I say if you are going to oppose the NRA and their political operatives, you may as well restore the strengthening language that is included in my amendment that law enforcement wants. If you vote for the DeConcini bill or the Metzenbaum amendment, the NRA will not love you, but I will guarantee if you vote for the strongest language banning assault weapons, the law enforcement community will. Yes, and so will the American people.

The amendment that I offer today would strengthen the DeConcini bill in two important ways. First, it adds to a list of banned assault weapons 13 other American-made assault weapons. This amendment, like the DeConcini bill, would not affect the guns that are currently owned by anyone. It would merely prohibit the future sale of these specifically listed weapons. The amendment also bans nearly identical firearms so that gun manufacturers cannot circumvent the law by making minor cosmetic changes in the design of a banned firearm.

That language was carefully drafted with the assistance of firearms experts to ensure that it applies only to a firearm—that is one of the listed assault weapons—with only superficial changes. Opponents of assault weapons restrictions have distorted the facts, saying that all semiautomatic guns, including some legitimate hunting rifles, would be banned by this legislation. That is not true.

They say there is no way to distinguish between semiautomatic assault weapons and semiautomatics used by hunters and sportsmen. The Bush administration has found otherwise.

Last year, after a 3-month comprehensive study, the Bureau of Alcohol, Tobacco and Firearms concluded there "are viable clear differences between semiautomatic assault rifles and semiautomatic rifles used in traditional sports." That is from the Bureau of Alcohol, Tobacco and Firearms.

The assault weapons that my amendment would add have been identified by law enforcement groups as the most dangerous ones. While assault weapons account for one-half of 1 percent of all privately owned firearms, an assault weapon is 20 times more likely to be used in a crime than a conventional firearm. These are the weapons of choice of criminals, especially those in the drug trade.

Everybody talks about the necessity of winning the war on drugs. Yet we are hesitant to take a major step toward disarming the enemy in that war.

Again, I repeat, none of these weapons have any sporting purpose. Hunters do not use them; drug dealers do. By voting against my amendment, you vote against law enforcement, and you vote to protect the drug dealers' right to use assault weapons.

My amendment also bans the sale of magazines larger than 15 rounds. This provision was in my original bill, at the suggestion of law enforcement groups. They correctly point out that nobody uses large magazines for hunting. There is no need to fire that many bullets. Any good hunter knows your first shot is your best shot.

The 75-round magazine attached to Patrick Purdy's gun enabled him to turn a playground into a playing field. All of the law enforcement officers who testified at two Judiciary Committee hearings we had last year stressed the importance of having legislation that would ban the sale of not just assault weapons, but of the large magazines as well.

I am happy to say that I am in good company in supporting a ban on large magazines. A few months after I introduced my bill, President Bush announced his anticrime package in a speech at the National Peace Officers Memorial Day ceremony on the steps of the Capitol. He called for the banning of magazines larger than 15 rounds. The President put it this way:

> One thing that we do know about these assault weapons is that they are invariably equipped with unjustifiably large magazines. The notorious AK-47—

Said the President—

> for example, comes with a magazine that pumps 30 explosive bullets without reloading. That is why we stand on the steps here in front of the Capitol and ask support for our legislation prohibiting the importation, manufacture, sale, or transfer of these insidious gun magazines of more than 15 rounds.

That is the end of the President's quote. That magazine was included when the President's bill, S. 1225, was introduced in the Senate by my distinguished colleague from South Carolina. That bill, with a magazine ban is his bill, is cosponsored by ROBERT DOLE, the minority leader; and Senators SPECTER, MCCLURE, D'AMATO, DECONCINI, SIMPSON, WILSON, MCCONNELL, NICKLES, and KASSEBAUM.

In introducing that bill last June, Senator THURMOND said:

> As a direct response to the deadly firepower used by drug kingpins, hired thugs, and other violent offenders, the President is calling for important restrictions on clips and magazines that hold more than 15 rounds. Legitimate sportsmen and hunters can still pursue their avocation without undue interference.

Senator THURMOND was right when he said it at that time. He is right today.

These guns do not need these large magazines, and my amendment includes a provision to eliminate the large magazines. It is only fair to say that my amendment also adds a number of assault weapons.

But I would say to my colleague from South Carolina, if it be the case that my amendment should be voted down, and the amendment which includes the larger list of semiautomatic assault weapons and the ban on the magazines, I hope that he will see fit to be a supporter of a ban on those larger magazines today, as he was then, and I hope that he will join with me, or I will join with him, in an amendment to ban magazines which holds more than 15 rounds.

I thank the distinguished Senator for remaining.

Mr. THURMOND. Mr. President, if the Senator will yield for just a

minute. We have to take steps to stop this violence in this Nation. There is no question about it.

However, a great many people feel that the lawless element, those who bring in drugs and guns, are going to smuggle them in some way. There is a strong feeling on the part of many people that the best way is to give stiff punishment if they use those guns in the form of violence.

In other words, in the bill, the provision I have contained in the substitute provides for 10 years in prison. We think that might be more effective than this other method. If that does not work, then we can try something else. We have to take very step we can to stop this violence.

I commend the Senator for his interest in trying to stop violence, and to get the people in this country to abide by the law.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the time taken by the Senator from South Carolina not be charged against the minority or the majority, and that we each continue to have the 2 hours that we had originally.

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

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Further carrying on with this dialog we just had with the Senator from South Carolina, the Senator from Ohio has no problems about increasing the penalty. I would be prepared to cosponsor an amendment having to do with banning of the larger magazines, and increasing the penalties for violating the law. I do not have any problem about that at all. I hope that, if this amendment does not pass, the Senator from South Carolina will see fit, or someone in his stead, to join with me in supporting the President of the United States' position in banning magazines that contain more than 15 rounds.

As I said previously, I appear to be in the company of some of the NRA's best friends in my support of a ban on large magazines. While I am attempting to strengthen Senator DECONCINI's bill, I want to make it clear that I applaud his effort to take some action to limit the availability of these weapons of war.

But we can pass the DeConcini amendment, hopefully, and we also can pass the ban on large magazines, which is not in his amendment and which is in mine. But, if mine should fail, we can put that in. I hope that some of those who will lead the opposition to my proposal will see fit to support a ban on magazines containing more than 15 rounds, as has been urged by the President of the United States and as has been provided for in a bill pending in this body, supported and introduced by Senator THURMOND and a number of other Senators, whose names I mentioned previously.

As a matter of fact, coming back to Senator DECONCINI's amendment, I want to point out that his amendment, his provision in the bill, covers a lesser number of assault weapons, some of the imported ones, some of those manufactured in this country. It took a lot of courage for Senator DECONCINI to offer that amendment in the committee, because the Senator from Arizona is not known as an advocate of gun control. In fact, in July 1988, he was named legislator of the month by the NRA.

I have received a lot of different honors since I have been here in the U.S. Senate, and I am very proud of each and every one of them, but I know there is one that I am never going to receive. The NRA is never going to name me legislator of the month, and you can bet all the tea in China on that.

Forgetting any past support Senator DECONCINI had given the NRA, after he proposed his amendment, which is far less strong than mine, the NRA attacked him as fiercely as they ever did any Senator. They went after him tooth and nail.

I know something about being attacked by the NRA. I have been in that privileged position. In 1988, when I was running for reelection in Ohio, the NRA, I am proud to say, made me their No. 1 target for defeat. I did not make their honor roll or their legislator of the month, but I was made a target in the elections of 1988. The NRA sent out thousands of letters to my constituents; they supported my opponent. They took out newspaper ads against me; they used radio and TV ads against me. They mounted a full court press. As a matter of fact, in a letter to their membership that year, they said: "Our biggest foe, HOWARD METZENBAUM, is up for reelection, but he is not unbeatable."

What had I done to earn such opposition? Had I done something to violate the laws of this country or something that transgressed on the rights of the NRA or their members? Let me tell you what I did. I introduced a bill banning plastic guns that terrorists use to get through airport metal detectors. The U.S. Congress thought that was good legislation. We passed it, and it was signed into law.

The second thing I did is I pushed for passage of a bill banning cop-killing bullets that could go through bullet-proof vests worn by police officers. The NRA opposed that very strongly. As a matter of fact, they kept it from coming to the Senate floor for about 8 months. And the only way it finally came to the Senate is I indicated I was going to add it as an amendment to some agriculture bill that one of the NRA's strongest supporters very badly wanted. It really did not belong on an agriculture bill, but I had no other way of getting it to a vote. So when I threatened to add it to the agriculture bill, which would then have forced my colleague who was supporting the agriculture bill to vote either against the bill with my amendment on it and thereby against his own bill, or for it and have to vote for my ban on cop-killer bullets, he finally came over to me and said, "Let us work this out and see if we cannot bring your measure to a vote at an early date." We did, and it passed, and if my recollection serves me right, it was something like 98 to 1.

I also introduced a bill NRA did not like, requiring a 7-day waiting period before the purchase of a handgun. We have not passed that yet, but we will, and we will do it with the support of Jim Brady and his wife. Jim Brady, who was shot down when he was with President Reagan, has testified before our committee in connection with the need for a 7-day waiting period. We will pass that bill. But to the NRA, those bills that I supported were sufficient reason to make me their No. 1 target in 1988.

In order to try to defeat me, the NRA never minded resorting to lies. Lies are their stock in trade. They lie and lie and lie, and the worst part is, too often they get away with it. NRA was saying back in Ohio that I wanted to take away everybody's gun. I do not have any legislation to take away everybody's gun. I never had such legislation, and I do not contemplate introducing or proposing such legislation. That did not bother NRA. They were not worried about the facts; they were only worried about trying to defeat HOWARD METZENBAUM.

I remember numerous times when campaigning back home in Ohio, at a union meeting or a veterans meeting or someplace, and someone would come up to me and say, "Senator, why are you trying to take our guns away?" I would say, "Who said I am trying to take your gun?" The reply would be, "I got this letter from the NRA." I would say, "The bills I support are against plastic guns and cop-killer bullets and for a 7-day wait to buy a handgun." Then I would say, "Do you have any need for a plastic gun or cop-killer bullets or a need to get a handgun in less than a week?" The answer normally would be, "No, I do not need any of those things. I did not know that is all your bills do. The NRA says you want to ban all guns."

I would hear the same thing time and time again in Ohio, because of the lies told by the NRA. In fact, sometimes I would be speaking at a meeting, and if there were some people in the crowd who were sportsmen and hunters, I would say, "I guess some of you have something on your mind be-

cause you received literature from NRA." And they would start to shake their heads, yes, they have, and I would state the facts and get the facts out to the electorate of Ohio.

Obviously, their lies did not work. In spite of the attacks by NRA, I am pleased to say that I was sent back here to the U.S. Senate.

I was not the only Member of Congress that they attacked. In a mailing to their members, they said:

> Our biggest foe, HOWARD METZENBAUM, is up for reelection, but is not unbeatable. Neither is his anti-gun buddy in the House, BILL HUGHES, of New Jersey, who is also up for election, along with other prominent anti-gunners, such as TED KENNEDY, of Massachusetts; FRANK LAUTENBERG, of New Jersey; JOHN CHAFEE, of Rhode Island; and dozens of others.

All of them were targeted for defeat by the NRA. You know the facts: All of them were reelected. The same 1988 letter talks of the strong support the NRA intended to give to their Senate supporters, and they named two of them. One was in Nebraska and the other was in Nevada.

I am happy to report for my colleagues that the ones they marked for defeat they were not successful in defeating and those that they were very strongly supporting in Nebraska and Nevada did not return to this body. Apparently their support is not that meaningful.

I mention this because, frankly, the amendment that I offer today has struck fear into the hearts of my colleagues, the Senators in this body. My colleagues come up to me and say: "I agree with you. Assault weapons should be banned, but I cannot vote for your amendment because the NRA would go after me in my next campaign."

I say to my colleagues: Do not be afraid of the NRA. Their record shows there is no reason to be. The NRA is a paper tiger. Its bark is louder than its bite, and the record proved that. There is a reason, because opinion polls show that the American people overwhelmingly support responsible gun laws.

Perhaps the most revealing of these polls was one taken earlier this year by CNN and Time magazine, as a matter of fact, headed "Who Is The NRA? A look at America's embattled gun lobby." That poll showed something quite interesting. It showed that 73 percent of gun owners think assault weapons should be banned. Seventy-three percent of gun owners think assault weapons should be banned. As a matter of fact, the Time magazine article reported that 73 percent of all gun owners favor registration of semiautomatic guns.

I want to make it clear. My amendment does not go that far. I have nothing in this amendment providing for registration. But that is what gun owners are saying throughout the country. I would guess that the American people are far greater in numbers and support of the amendment that I offer here today. With support such as that, 73 percent from gun owners, the largest support from people across the country, no Senator need be afraid of the wrath of one special interest group, the NRA.

But Senators fearing the NRA, frankly, is not the issue here. The issue is whether police officers should have to perform their duties in fear of being outgunned by some drug dealer. It is whether school children should have to play in fear while in their own schoolyard. It is whether any person should have to fear being caught in the crossfire of a street gang shootout.

People have a right not to be afraid. People have a right to expect some courage from their elected officials. Let us show some courage here today. Let us stand up to the National Rifle Association and stand up with the police officers of this country. By supporting this amendment you cast your vote with the law enforcement officers of this country. You cast your vote with the overwhelming majority of people in this country.

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

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. I yield such time as I may so need.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HATCH. Mr. President, I rise in opposition to the amendment and for very good reason.

I state at the outset of this debate that the only real assault these so-called assault weapons provisions make is on the legitimate rights of law-abiding Americans.

Let us understand that over the last several years we have witnessed a steady attack on the second amendment rights of law-abiding Americans. For the most part, these attacks, often in the name of reducing crime, have focused on the availability of and access to handguns. In the 101st Congress, those opposed to the right to bear arms have shifted gears. With the introduction of S. 1970 and similar legislative proposals, law-abiding gun owners find themselves confronted with an attack on the right to possess semiautomatic long arms.

Because they realize they are attacking the rights of legitimate, honest, law-abiding sports people, they bring up a bugaboo called the National Rifle Association. Frankly, I am not arguing for the National Rifle Association. I think there are a lot of good people there. But that is not the issue. The issue is the rights of law-abiding citizens to have their own weapons and to have semiautomatic long arms which they have used for hunting purposes for 100 years.

I have watched this issue with interest. When I first heard of reference made to the assault weapons issue, I thought to myself, the media must be referring to criminals who have somehow gained easy access to the fully automatic military weapons that we had severely restricted with passage of the Firearms Owners Protection Act, a couple of Congresses ago.

I know about that. I managed the floor on that bill. We restricted it then.

Then I started to read the legislation that was being written. Boy, was my first assumption wrong.

As I read through these bills, I was amazed to find that the weapons under attack were semiautomatic long arms, firearms that employ a firing action that has been popularly used in hunting weapons for over 100 years. My next thought was that somehow, despite statutory language that has been on the books for some time now, the weapons being referred to must be easily converted from semiautomatic to fully automatic. Why else would the media refer to these rifles with such a fiendish sounding name as assault weapons? It was therefore with anticipation that I reviewed the Judiciary Committee hearings to find if the testimony received would reveal that some of these weapons were readily convertible. Again, I was wrong.

Testimony by witnesses indicated that very few of these semiautomatic weapons were actually being converted to fully automatic. The witnesses testified that it was actually very difficult to bring about such a change and, in fact, police testimony indicated that for the most part, when these weapons had been confiscated as crime weapons, they had not been converted. By that time, of course, I began to have a sneaking suspicion in the back of my mind that what we were actually confronting was simply a new effort by the antigun groups and media to attack the constitutionally guaranteed right to keep and bear arms. It seems that it is only for dramatic effect, that the semiautomatic firearms under attack are being referred to as assault weapons.

If you change the stocks on some of these weapons, you have weapons that have been used for hunting for many, many years and used by honest, decent law-abiding citizens who would not hurt a flea.

After a careful review of this amendment, the underlying amendment, and the other antifirearm legislation that has been considered by the Judiciary Committee in connection with this issue, I want to repeat, as I stated at the outset of these remarks, the only real assault that these so-called assault weapon bills make is on the le-

gitimate rights of law-abiding citizens. Furthermore, regardless of terminology, this legislation will not have any real impact in reducing the number of violent crimes committed with these or other weapons.

DEFINITION OF "ASSAULT WEAPONS"

The Bureau of Alcohol, Tobacco and Firearms has no definition of assault weapon. The military definition—a selective fire weapon capable of firing in either an automatic or semiautomatic mode—is inapplicable to the commercial arena. Indeed, with the enactment of the Firearms Owners Protection Act, the private purchase of new fully automatic machineguns is banned and the possession of existing automatic machineguns is highly restricted, requiring an extensive background check and permission from both local law enforcement and the Federal Government before such a firearm can be transferred to a new owner. The proponents of this amendment and the underlying legislation have sought a workable definition of assault weapons, other than simply listing guns by brand name and model, but they have been unable to produce one.

This lack of a definition for assault weapons has been a major stumbling block to gun control advocates from the outset of the consideration of this legislation. The firearms listed in this amendment and the bill employ a semiautomatic firing action. They are not fully automatic, neither are they readily or easily convertible to fully automatic. In fact, the semiautomatic firing action employed in these firearms is the same as the action found in every popular semiautomatic hunting rifle. And, as I mentioned earlier, the technology behind the semiautomatic firing action has been employed for well over 100 years.

These weapons utilize a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round. Furthermore, they require a separate pull of the trigger to fire each cartridge. You cannot simply hold the trigger and fire all the cartridges in the magazine as with a machinegun.

In the attempt to generate support for banning these guns, they have been referred to as assault weapons, a term which conjures up some idea of terrible weapons that have no purpose other than killing innocent people. When pressed on a definition for this term, the typical response is that these are dark, sinister-looking weapons that are well suited for combat—in other words, you will know one when you see one.

Regardless of what they are called, these firearms are functionally no different from semiautomatic hunting rifles. A semiautomatic rifle used for hunting has the same capability as a semiautomatic rifle that cosmetically looks more sinister, or vice versa. And that is the only difference between many hunting rifles and the firearms listed in this legislation—there appearance. The weapons in this amendment, and in S. 1970 are referred to individually by model type and brand name because it is inherently impossible to define assault weapon in such a way so as not to also ban many, if not virtually all, semiautomatic hunting rifles.

The proposed banning of specific firearms causes me grave concern about the potential impact on other semiautomatic weapons because they are all functionally the same.

SECTION ANALYSIS

Mr. President, to appreciate the effect of the pending amendment, it is necessary to examine the underlying language which it would amend.

While the Judiciary Committee devoted a great deal of time to the consideration of the assault weapons issue in general, surprisingly little time was devoted to the specifics now found in S. 1970 and the underlying amendment. There were two hearings in which assault weapons in general and the merits of an earlier version of S. 1970 and other proposals were discussed, but the committee received little testimony in the way of section-by-section analysis.

There is the underlying problem in attempting to define assault weapons so as not to include hunting weapons. The firing action of the weapons listed in these bills is the same as any other semiautomatic weapon. Furthermore, any semiautomatic firearm that employs a detachable ammunition clip or magazine is capable of accepting a clip holding any number of rounds. The only distinction between these firearms and the firearms listed in these bills is that the latter look more sinister.

To overcome the definitional problem, these legislative efforts simply list those particular firearms which their sponsors would like to ban. This approach, however, raises some concerns. In the event that manufacturers of the listed firearms change the names of the firearms or make minor modifications in the firearms to avoid the prohibitions placed on these guns, a discretionary determination will have to be made on whether or not the prohibitions still stand.

As my colleagues may remember, last Congress, during the consideration of the plastic gun bill, this discretionary authority question was one of the major issues I, and others, saw at that time.

I am sure that I, and I am also sure that others, will oppose any such discretion being granted to the Secretary of the Treasury. Similar questions arise with respect to those sections which would require the use of Federal firearms purchase forms, the form 4473, for the future transfer of those assault weapons already legally owned.

As noted in the majority report on S. 747, the bill "requires current owners of a firearm listed in section 3, and purchased prior to the act's effective date, to acquire a form 4473, or equivalent, from any federally licensed gun dealer." This same approach is found in S. 1970 and the underlying amendment. The Secretary of the Treasury would promulgate regulations which with which gunowners and dealers must comply, within 90 days. Although the majority report gives no guidance on these regulations, we assume that such regulations would take into account adequate notice to gunowners and possible situations in which a gun dealer might refuse to comply with a form request.

Additional concerns remain about the application of these sections requiring from 4473. Some concern has been expressed about the use of the copy of form 4473 which must be retained by each current owner of one of the listed guns. Will this form eventually become a carry permit for each individual gun? Will an owner need to carry the form whenever he or she transports or uses the firearm? Will law enforcement agents be empowered to confiscate the listed firearms if the form 4473 is not physically with the firearm at all times? Will these officers be allowed to go to the house of any citizen who they know owns one of these weapons and demand to see the form 4473? Exactly how will these sections be enforced? These questions have not been addressed either during the hearings or during committee debate.

In my view, the form 4473 requirements appear to be subtle registration requirements. Under title 18, United States Code, section 922(r), a new section proposed in this legislation, no later than 90 days after the Secretary of the Treasury issues regulations regarding the acquisition of copies of form 4473, each current owner of the banned firearms listed in the bill must obtain a copy of the form that was filled out when the firearm was originally purchased from a licensed dealer. If the firearm was purchased before the forms were originally required or if the current owner is not able to ascertain which dealer from which a previous owner might have purchased the gun, then the owner must go to any other licensed dealer and fill out a new form. The dealer and the owner must each maintain a copy of that form. Thereafter, for each subsequent sale or other transfer of that particular firearm, each new purchaser or owner must fill out a new form 4473; a record of the sale or transfer must be noted on the earlier copy of form 4473 already held by the seller or transferor; a copy of the new form 4473 and the amended old form 4473 must be maintained by the cur-

rent seller and purchaser; and they are required to obtain copies of any form 4473 that is created from any future transaction regarding that firearm.

In other words, while there may not be a central registry for the listed firearms here in Washington, DC, each person who owns one of these firearms when the bill is enacted will become the registrar for that firearm. That owner will be required to obtain a copy of the original form 4473. The owner must maintain a copy of a new form 4473 when he or she sells or transfers the gun, and, pursuant to the second sentence of title 18, United States Code, section 9922(r)(3), as added by this bill, obtain copies of all future forms 4473 involved in subsequent transactions involving that firearm.

This last requirement is particularly troubling when read in conjunction with the penalties section of the bill. Under those provisions, any person who knowingly fails to obtain the required copies of form 4473 may be fined up to $1,000 or imprisoned for up to 6 months, or both. If the original owner knows that the subsequent owner has resold the firearm, but the subsequent owner refuses a request to provide the original owner with a copy of the new form 4473, as required by this bill, the original owner is subject to the proposed penalities even though he or she made all possible attempts to comply with the law. Each future owner of the firearm in question is likewise responsible for obtaining copies of forms for all subsequent transactions that might occur after he or she transfers the gun. These sections of the bill are unworkable and unfair. Their full consequences were never analyzed or discussed by any of the witnesses before the committee.

And the pending amendment could expand these form 4473 requirements to literally every semiautomatic weapon.

Now, come on. That is why those of us who live in the Midwest and those of us who love to hunt and those of us who love to fish and be outdoors get sickened by this type of stuff, all done under this excited, frenetic, scare-all-the-people idea that somehow these weapons are going to be used in the commission of crimes. They are not. And you will not be able to stop the importation of illegal arms by those who are criminals, anyway.

Senator THURMOND is absolutely right when he says the way to stop this misuse of automatic and semiautomatic weapons, is to get tough on crime, not tough on law-abiding citizens by making it so miserable to own firearms that none of them can.

Let me just talk about this amendment.

First, in addition to expanding that stupid form and all of the subsequent forms, it would add more guns to the list of those already specifically mentioned by name.

While this long list of guns is objectionable, even more troubling are the catchall subsections which are very ambiguous. The first subsection V bans all other models by the same manufacturer with the same design which may have slight modifications or enhancements in every case. These modifications include things such as folding stocks, adjustable sights, and others. Under subsection V, the Secretary has the discretion to decide what other models made by the same manufacturers have the same design as those listed and will then instruct the Bureau of Alcohol, Tobacco, and Firearms to enforce the law against those weapons as well.

Thus, citizens will not find out whether a firearm falls within this clause until they wind up in court and Federal judges start telling us if the Secretary and BATF have properly exercised their discretion. Talk about bureaucracy, talk about ensnarlments, talk about a way of nailing decent, honest, law-abiding sports people. As if this discretion would work is objectionable enough.

Subsection W of this amendment then goes on to include any other firearm regardless of the manufacturer with an action design that is identical or nearly identical to the specifically listed weapons and which has been redesigned from or patterned after one of those listed firearms. With this subsection, the Secretary's discretion is broader still.

Some experts with whom I have consulted have indicated that virtually all semiautomatic weapons employ actions that are nearly identical. I received a letter from the Bureau of Alcohol, Tobacco, and Firearms I would like to print in the RECORD which states that the meaning of "action design" is unclear and its inclusion within the definition of assault weapons could be interpreted to include many conventional sporting semiautomatic weapons. This section could easily be read to include all semiautomatic firearms, including hunting rifles, which I understand the sponsors of this measure claim they do not wish to ban.

Mr. President, I ask unanimous consent to print the letter from the Bureau of Alcohol, Tobacco, and Firearms in the RECORD.

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

BUREAU OF ALCOHOL,
TOBACCO AND FIREARMS,
Washington, DC, July 12, 1989.

HON. ORRIN G. HATCH,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: This is in reference to your letter requesting our opinion whether the language in S. 386, the Assault Weapon Control Act of 1989, or S. 747, the Antidrug, Assault Weapons Limitation Act of 1989, could be read to include all semiautomatic firearms.

Section 2 of both bills would amend 18 U.S.C. § 922 to make it unlawful for any person to transfer, import, transport, ship, receive, or possess an "assault weapon." This provision would not apply to the transfer, receipt, importation, or possession by or under the authority of a Government entity, or any lawful transfer or possession of an "assault weapon" before the effective date of the bill.

Section 3 of both bills would define the term "assault weapon" to include: (1) certain named firearms, (2) all models of the named firearms, and (3) any firearms which have an "action design which is identical or nearly identical to the named firearms." The meaning of the phrase "action design" is unclear and its inclusion within the definition of assault weapons could be interpreted to include many conventional sporting semiautomatic weapons. We are unsure whether the sponsors of the legislation intend to prohibit such firearms and would recommend that this provision be clarified.

We trust this information is responsive to your inquiry and, again, apologize for the delay in our reply.

Sincerely yours,

STEPHEN E. HIGGINS,
Director.

(Mr. KERRY assumed the chair.)

Mr. HATCH. Mr. President, this amendment appears to leave the door to firearms restriction wide open. This amendment also proposes the banning of large-capacity gun clips.

I am opposed to this amendment because it will not have any effect on violent crime and it will be, in fact, impossible to enforce. Short of registering existing large-capacity clips, there is no way of determining if such clips were possessed before the date of enactment of this bill.

It is my belief that this amendment would result in an administrative and enforcement nightmare. I defy anyone to present a plan which will effectively carry out the banning under this amendment. For someone who is even semiproficient in the use of a firearm, it will not matter whether a clip holds 5, 10, 15, or even 100 rounds. It takes a matter of seconds to change the clip on a semiautomatic firearm, and this amendment would simply have no useful effect.

In summary, the second amendment to the Constitution provides that every citizen of this country has the right to keep and bear arms in order to help in the preservation of our freedom. By banning the fireams listed in this legislation, Congress would seriously undermine that constitutionally protected right. Moreover, this bill will not keep the listed weapons out of criminals' hands and, even if it did so, these criminals will be able to obtain other weapons to commit their crimes. But it will not do that. The criminals always have access to these. They always have access to things that the rest of the community does not.

While the ban on the listed firearms may serve the purpose of appearing to

respond to the incidents of violent crime, in my view such a ban constitutes only a form of gun control, not crime control. Indeed, if this legislation's proponents had confidence in gun control as an effective means of crime control, the underlying legislation would not sunset after 3 years.

This language does not belong in this crime bill. It simply does not belong. I have to say that I get a little tired of some of the cheap shots that are taken from time to time by some of these gun control groups at the sporting organization called the National Rifle Association. Yes; they are very strong proponents of the right to keep and bear arms. Yes; they are very strong proponents of the law-abiding sportsmen and women in this country. Yes; they spend millions of dollars and all kinds of time teaching young people how to care for, treat, and use hunting weapons. Yes; they do an awful lot of good in our society from the Olympics to training young people in the safe use of firearms.

I get a little tired of some of the cheap shots that are being taken against them, because they are a tough group of people. They do believe in the sportsmanship of maintaining arms, keeping them, and handling them in an appropriate way and they, above all, are tough as nails on crime because they do not want weapons used in the commission of crimes.

Every time we try to get tougher on the criminal side of this, we wind up with this type of stuff.

I just want to say that I think every organization, I suppose, has aspects we can criticize politically. But the fact of the matter is this organization does a lot of good.

I can tell my colleagues, this bill is going to do a lot of harm. This amendment will do destructive harm to every sports person in this country. This amendment would do destructive harm to a lot of people who honestly want to own these weapons and want to use them for sporting purposes and rightfully ought to be able to since the same firing action in what are listed in this amendment and the underlying bill basically are virtually the same.

I think we have to go after criminals and quit going after the honest law-abiding citizens.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, how much time does the Senator from California wish?

Mr. CRANSTON. Not more than 5 minutes.

Mr. METZENBAUM. I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, few Californians, let alone Americans, remember who James Huberty and Patrick Edward Purdy were. These names will forever be tied to two tragedies which occurred in California in San Ysidro and in Stockton. Some Californians and some Americans will remember their names forever with horror.

James Huberty wielded an American version of the Uzi semiautomatic weapon. Patrick Edward Purdy brandished an AK-47. Their names and their weapons are linked forever with anguished parents and loved ones who were shocked beyond belief that their children and relatives could be cut down so brutally and so swiftly. None of the residents of these communities can every forget that Purdy fired over 100 rounds of ammunition in less than 2 minutes. He killed 5 children, he wounded another 29, and he wounded 1 teacher. Huberty was armed with a gun which was advertised as "the perfect choice for the sportsman who wants unfailing reliability and top performance in a rugged compact size." He killed 21 people.

I am glad that the language in the measure now before us bans the Uzi and the AK-47. That ban must be kept in the bill. But there are similar assault weapons the bill does not ban. It should do so. Therefore, I support the Metzenbaum amendment.

Mr. President, I support the right of legitimate gun owners and sportsmen to possess guns. But I do not believe that weapons whose sole purpose is to make the killing of human beings more efficent are weapons for sportsmen. Nor do I believe that such weapons ought to be available to the general public. Nonetheless, our laws today allow assault weapons, which can only be characterized as the machines of war, which could flood our streets with blood and turn them into urban trenches.

I am not alone in this recognition of the danger posed by assault weapons. A little over a year ago, the California legislature passed the Nation's first law banning military-style semiautomatic assault weapons. Similarly, the Los Angeles City Council outlawed the sale and possession of assault weapons. Even President Bush, a lifetime member of the National Rifle Association, instituted a ban on certain foreign-made assault weapons.

These legislative actions reinforce the belief that the privilege of gun ownership does not and cannot extend to any and every gun. These are not simply the actions and opinions of detached observers catering to the whims of gun abolitionists. Police officers, the Nation's front-line defenders, also recognize the threat which these weapons pose to the officers on the street.

The chief of the Los Angeles Police Department has testified that such weapons should be legislated out of the hands of killers because they turn our streets into battlefields. The National Association of Police Officers, the National Sheriffs Association, and the International Association of Chiefs of Police have also voiced support for Federal legislation regarding assault weapons. We should back up our police.

What the legislators and police organizations recognize is that as criminals become more armed, so must the police. If this mini-arms race goes unchecked, we run the risk of turning our cities into American versions of Beirut.

Mr. President, the legislation before us is a crucial step toward striking the balance between legitimate gun ownership and protection of the public. The true sportsman will not be impeded by this legislation in his or her use of a weapon. The law enforcement officers will face less firepower in his or her daily duties, and the public will begin to understand that we are serious about curbing assault weapon violence, and the public will be safer.

There is one question I want to leave for consideration, Mr. President. Imagine that assault weapons are already prohibited and that the Senate were voting on whether to legalize them. Who would support that bill for legalization? Drug gangs, organized crime, or the James Hubertys and Patrick Edward Purdys of our Nation?

The time for action is now. I urge adoption of the amendment offered by the Senator from Ohio, HOWARD METZENBAUM.

Mr. METZENBAUM. Mr. President, I thank my colleague from California for his support. I appreciate the fact of his willingness to stand up and be counted strongly in support of our amendment.

Mr. President, I wish to take one moment to clarify a matter. In the Democratic conference this morning, I was asked about whether any additional weapons could be added to this legislation by a member of the administration, and I indicated that in some circumstances it could. That was not the correct answer. I want to clarify that. No additional weapons may be added by a member of the administration.

The language of the amendment does provide that, if there is something almost identical which is called something a little bit different than the gun that is banned, that would be added. But the administration does not have—nor anybody in the administration—the right to add additional weapons.

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

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield 5 minutes to the distinguished Senator from Idaho.

Mr. McCLURE. Mr. President, I compliment the distinguished Senator

from Utah for the comments he has made already, and the leadership which he has given in the fight to preserve the constitutional right to keep and bear arms.

I will not take long, but I would like to remind my colleagues that the Constitution of the United States does not give us rights. The Constitution of the United States and the Bill of Rights guarantees us the continuation of rights which are believed to have been endowed upon us as free human beings by our Creator.

The framers of the Constitution very clearly had that in mind at the time they adopted the Bill of Rights, including the second amendment to the Constitution of the United States, dealing with the right to keep and bear arms. It is not something that they suddenly dreamed up. It is something that had been discussed over a decade or more prior to that time in the debate over what are the inalienable rights of man, and the right to keep and bear arms was believed by the framers of the Constitution to be one of such rights which when the Constitution was written were guaranteed to us. It was not something they decided to give to us that we did not have.

So the burden lies on the part of the other people who wish to deprive us of rights which we believe we are endowed with as free men and women in a free society, and the burden is on them to explain to us why they wish to inhibit the freedom of human beings.

Let us stop for a moment and look at what the Senator from California said just a moment ago. The Senator raised the issue of Mr. Purdy. Let us look at the facts in the Purdy case. Let us not look at the emotions, because none of us would deny what was done was horrible. It was revolting. It sickened each of us, and each of us as a parent, as a grandparent, must be concerned about whether something like that might happen to one of our family.

But let us look at the Purdy case. It was not a crime of gun ownership. It was a failure of the criminal justice system that produced Mr. Purdy. As a matter of fact, the lesson to be drawn from the Purdy case is that he should have been in jail. He was a criminal. Our criminal justice system released him from jail and he committed a horrible crime. It was not a failure of the second amendment of the Constitution but a failure of the justice system in our country.

Mr. Purdy had been arrested for the crimes of drug possession, solicitation of sex, illegal possession of dangerous weapons, receipt of stolen property, attempted robbery, criminal conspiracy, firing a pistol in a national forest, and resisting arrest. Those were things for which he had been charged, and the criminal justice system released him without ever once making a felony conviction record.

That was not because of the second amendment to the Constitution. It was because our criminal justice system failed to take him off the streets of our country. He plea bargained on some of those charges, which resulted in misdemeanor convictions only and not felonies. His last contact with the criminal justice system before he committed this terrible crime was a probation report that described him as a danger to himself and others.

It was not because he had not committed crimes that disqualified him from gun ownership. It was not because he had not been identified as a danger to society. It was because the criminal justice system failed to protect society against that kind of a psychopathic killer.

Yes, because of the lack of a felony record, he could and did comply with and pass much more strict statutes than we are dealing with here today. He passed a 15-day waiting period and a police background check. For those police organizations that say, "Hey, just give us a waiting period; we will stop all of this kind of violent crime," the Purdy case proves as a matter of fact it does not. Mr. Purdy passed a 15-day waiting period test, and he passed a police background check required under the California law to purchase five pistols. It was a criminal justice system failure that resulted in the death of those schoolchildren in California, not ownership of firearms in the hands of legitimate and law-abiding citizens.

Now, let us look for a moment at what is in the amendment with respect to what is proposed to be banned. I do not mean to go through the entire list and discuss each one of them, but I notice that subsection (M) under the Metzenbaum amendment, the Ruger Mini-14 would be banned specifically. I happen to know from my contact with sportsmen that the Ruger Mini-14 happens to be a weapon that is used a great deal by those who just go out and plink and target shoot, and the various kinds of recreational shooting familiar to those of us who keep and own and use firearms ourselves.

I would look at subsection (T) as an example; F.I.E. Spectre P. pistol. Somebody has decided that this is an assault weapon, whatever that may mean, but Senator METZENBAUM says in his amendment ban it. We have decided that it is dangerous and it should be banned.

Very recently the Maryland board that has to pass on the suitability of weapons of this kind under provisions of the Maryland statute approved this as an appropriate firearm for ownership by the ordinary American citizen, and yet that judgment by this board is going to be wiped out by somebody's idea, whomever it may be, that indeed that particular weapon ought to be banned.

The PRESIDING OFFICER. The 5 minutes yielded to the Senator have expired.

Mr. HATCH. I yield 2 additional minutes.

Mr. McCLURE. I thank the Senator for yielding more time. I will not take long, because I think most Members of this body are already familiar with these issues and are prepared to vote.

I intend to allow them to do that very soon.

The thing what concerns me about this basic thrust is that, because somebody has an abhorrence for a crime, they wish to strike out the instrument of that crime, not the perpetrator of the crime but the means by which the crime was perpetrated. Let us assume that somebody used a Molotov cocktail against a schoolbus full of children. Does that mean we are going to ban gasoline? Let us look at the incidents of mayhem on our highways from those who are drunken drivers? Are we going to ban automobiles?

Let us look at the criminal behavior of the individuals rather than the means by which they perpetrate these crimes against our society, rather than looking at the instrument they use.

As a matter, of fact, I am not sure what an assault rifle is. Am I a criminal because I own and use a 1903 A-3 Remington? That was the assault rifle of its day. Does that mean that my brother is a criminal because he has the 30-40 Krag that my father used and carried in World War I? It was the assault rifle of the 1890's. What is an assault rifle? What is there about a weapon that says it is so repulsive that we do not want it? In whose mind and by what criteria do we come to that conclusion?

Finally, Mr. President, with respect to the allegation the Senator just made about the discussion in the Democratic caucus earlier today, does this bill give anybody the right to ban weapons? I will say categorically, yes, it does.

There is discretionary action to determine what is similar or like or a slight modification. That is arbitrary discretion in the mind of some administative official to determine whether that provision is operative.

No amount of talk can take away the fact that this amendment gives discretion to administrative officials to exercise the same kind of arbritary judgment that the Senator from Ohio has exercised in drafting this amendment; the same kind of arbitrary discretion that says the mini-14 is an assault weapon; the people that own it are somehow criminal psychopaths, and there are a lot of people out there—I suspect some of the Senator's constituents in Ohio may be condemned as

criminal psychopaths in the mind of the Senator from Ohio as a result of this language—for the same kind of arbitrary discretion that says the Maryland board is wrong in describing the one pistol that I referred to earlier as an appropriate weapon to be owned by ordinary citizens. And the Senator from Ohio says, "Oh, I know that this is an assault weapon that should be banned."

I hope that the motion to table the Metzenbaum amendment will be agreed to and we can get on to discussing the very important measures that are involved in this crime package—and legitimately in the crime package—that deal with the incidence of crime, deal with the punishment of criminals, and to protect the American public against violent crime.

I thank the Chair.

I thank the Senator from Utah.

Mr. METZENBAUM. Mr. President, how much time does the Senator from Ohio have?

The PRESIDING OFFICER. Seventeen minutes, 15 seconds.

Mr. METZENBAUM. Mr. President, let me first address myself to the constitutional issue and yield myself 3 minutes for this purpose.

When we talk about the right of people to keep and bear arms, that shall not be infringed upon; it is in the Constitution. But the Supreme Court has recognized that it is a part of a total sentence. That sentence says:

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

So we are talking about a militia, a well-regulated militia, and guns that one owns in connection with that well-regulated militia. This matter has been before the Supreme Court a number of times on the constitutional issue, and in no instances has the Supreme Court ruled that that language in the Constitution gives an unlimited right to own guns.

My colleague from Idaho talks about the Ruger Mini-14/5F which is the Ruger model with a folding stock which makes it easy for criminals to conceal. Hunters do not need folding stocks, but criminals do, because they do not want to be walking around with a big gun all day long or when they are out on their night escapades. So they want the folding stock.

This gun actually was used to gun down FBI agents in Florida and one of those agents testified before our committee in connection with that loss of life that occurred to one of his fellow FBI agents.

Having said that, my colleague speaks about this gun or that gun, something Maryland did, did not do. I would say to my colleague that if he came to me and said, "This gun does not belong on the list and, if you take that off, we can support the amendment," my guess is we could work out something.

That is what I said to the NRA. I make no bones about it. I am not an authority on guns. I do not know much about guns. In order to compile this list, I went to the best source we could find, the Bureau of Alcohol, Tobacco and Firearms. I am not suggesting that they support this amendment. I am not sure whether they do or they do not. But I am saying that they were the ones who told us which guns properly belonged in this category.

Mr. President, one of my colleagues, I believe, is on the way to the floor to speak further on this subject.

I suggest the absence of a quorum.

Mr. HATCH. Will the Senator withhold?

Mr. METZENBAUM. I certainly do.

Mr. HATCH. My colleague makes the case for the particular point we are making. To compile the gun list, he went to the appropriate governmental authority and asked them what to include. They gave him this list. Look, it is a subjective judgment. It is one of the things that we are complaining about.

With regard to the second amendment, we have been over this issue many times in the past. It is my view that the right to keep and bear arms is an individual right to be enjoyed by all citizens if they so choose. In 1982, the Constitutional Subcommittee of the Judiciary Committee produced a report that I think makes several very effective arguments for this position.

In further support of that position the Supreme Court, in the recent case of U.S. versus Verdugo-Urguidez, a 1990 case, the Supreme Court equates the rights preserved in the second amendment with those preserved in the 1st, 4th, 9th, and 10th amendments. These are rights, according to the Supreme Court, to be enjoyed by all, as opposed to the rights guaranteed in the fifth and sixth amendments, which extend to criminal defendants.

That is precisely what we have been saying. The very arguments out of the mouth of the proponent of this particular amendment, my friend from Ohio, I think makes the case that we have been making here today and the distinguished Senator from Idaho has so eloquently made.

With that, I reserve the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. 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. HATCH. Mr. President, I suggest the absence of a quorum, but I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, I do not intend to object, do I understand I have about 15 minutes left?

The PRESIDING OFFICER. Fourteen, twenty-three.

Mr. METZENBAUM. The Senator from Utah has about 24 minutes left. I wonder if he would mind, until such time as we get down to an even amount of time left, charging it against himself.

Mr. HATCH. I am prepared to even yield the time, except we have the distinguished Senator——

Mr. METZENBAUM. I am waiting for Senator KENNEDY. I want to be sure he has enough time.

Mr. HATCH. Here is Senator KENNEDY. The distinguished Senator from Wyoming, also, would like to speak, and I know the Senator from Massachusetts is here.

Mr. METZENBAUM. The Senator from Ohio has 14 minutes left and the Senator from Massachusetts may take it.

Mr. METZENBAUM. Mr. President, I have no objection, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. 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. KENNEDY, Mr. President, I ask for 7 minutes.

Mr. METZENBAUM. Without objection, I yield 7 minutes.

Mr. KENNEDY. Mr. President, I rise to support the amendment of the Senator from Ohio. Senator METZENBAUM has, over a long and distinguished career, made an extraordinary contribution to the safety and the security of the people of this country by his tireless efforts to try and deal with the proliferation of weapons of violence in our society.

Once again this afternoon the Senate of the United States will have an opportunity to address a very basic and fundamental issue that does not take a great deal of time to debate, an issue which has been presented in the Judiciary Committee on a number of different occasions, an issue that has basically been studied to death.

Mr. President, I believe that with the acceptance of the Metzenbaum amendment, we will do more in terms of safety and security for the American family than any other provision in this legislation. I think all of us know

that in a short while we will have the opportunity here in the Senate to see whether the Members are prepared to stand up to the authority and the power of the National Rifle Association, which has placed this particular amendment and the DeConcini amendment on the top of their legislative agenda.

The Members of this body will have a very clear choice, so to speak, Mr. President. On the one hand, they will be able to vote on behalf of the National Rifle Association. On the other hand, they will be able to vote for their local police men and women in this country, those that are out patroling the streets of this Nation, those men and women who put their lives on the line virtually every day, those men and women whom we call upon to try and come to grips with the problems of substance abuse and the drug kings in our society. We will have a chance to find out where the Members of the U.S. Senate stand on this issue.

The Senator from Ohio has presented the case that has been made by thoughtful men and women who are on the front lines of American defense in law enforcement. There are repeated examples of how these law enforcement officials are trying to deal with violence in our society and are basically outgunned by these types of weapons. What possible response is there to the amendment of the Senator from Ohio? Well, you get your noses under the tent on these assault rifles, then who knows what is going to be down the road in terms of legitimate hunting weapons in this society?

Mr. President, that is hogwash. That argument has been around here for 20-odd years. It is irrelevant to this debate and discussion. Every Member of this body understands it, Mr. President. We are talking about an issue which even Secretary Bennett was persuasive in terms of getting this President of the United States, who had looked at this in a different way, to take a very limited step with regard to the prohibition of certain types of assault weapons into the United States.

Then we asked him, why not include assault pistols; they are even more preferable to the assault rifles. We will study that; we will give that a little more study by the administration.

Mr. President, we all know what is at issue here. It is a question of safety and security. One-half of 1 percent of the weapons brought in here fall within these categories; yet, they are used by the most sophisticated drug barons in our country.

Then we are in the intolerable position of taking those which are manufactured here in the United States and shipping them down to the Andean countries. We shake our fist at those Andean countries and send big aircraft carriers out there telling them to stop this violence, stop this transportation of the various illicit substances; meanwhile, we are sending right in there the weapons of destruction that put at risk the lives of courageous men and women who are trying to bring about peaceful change through democratic process and procedures. We do it shamelessly, Mr. President, absolutely shamelessly.

Mr. President, this is an issue that has been around. We can take this small step with regard to the automatic weapons. We know where the American people stand. I have not seen the most recent polls, but the one that I just saw about a year ago by the American people was 83 to 10.

We know the Members around here hope and say, well, let us just vote against the Metzenbaum amendment, and we will take our chances with the DeConcini and, by God, that NRA will not forget it. That is true. They are betting again that the American people, hard-working families who are trying to provide for their families, for their children, would just sort of forget about his until next election time.

Well, Mr. President, I believe that there is a movement out there. We saw those extraordinary killings that have taken place in school yards across this country, and I think the American people have said: "We have had enough." And, hopefully, with that sense and that feeling among the families of this country on this issue, saying we have had enough, the Senate will vote in support of the Metzenbaum amendment.

Mr. President, I support the strengthening amendment proposed by my colleague, the Senator from Ohio, just as I supported a similar proposal, S. 386, when it was considered by the Senate Judiciary Committee last year.

The assault weapons language in this Democratic crime package only attacks a small portion of the domestic assault weapon problem. This amendment, sponsored by the Senator from Ohio, a courageous leader on these issues, would attack the assault weapons issue more broadly. The Senate should act swiftly on this measure and send it to the other body for its approval. Action to stem the proliferation of assault weapons is long overdue.

This amendment would expand the list of assault weapons banned pursuant to the Democratic crime package. This amendment would also add a provision restricting the sale of ammunition magazines and ammunition belts in excess of 15 rounds, as President Bush proposed last year.

The weapons that will be added to the list reflect the expert assessment of the finest of our law enforcement community. The expanded list includes eight domestic assault weapons, five foreign made assault rifles and five foreign made assault pistols.

This proposal would ban a specific list of semiautomatic assault weapons identified by law enforcement as a danger to the community. The weapons are listed by name, model, and manufacturer. To make sure our intent is not easily evaded, the proposal applies to these weapons even if they are modified in minor, cosmetic ways. It does not apply to conventional semiautomatic rifles, shotguns or handguns. It also does not apply to popular semiautomatic hunting rifles, such as the Remington 4 and similar weapons.

The committee's efforts on the assault weapons issue date back to the early stages of the 1988 drug bill—before assault weapon violence became commonplace and before some urban neighborhoods began turning into free fire zones. These guns have put awesome killing power in the hands of drug runners and other criminals.

With this legislation, we have a chance to stem the tide of assault weapons and the senseless violence they cause.

Two decades have passed since Congress enacted major legislation restricting firearms sales.

Since then, we have witnessed a runaway arms race as neighborhoods descend into anarchy, ruled by heavily armed gangs and others who answer to no law.

Assault weapons put awesome killing power in the hands of drug runners, hate groups, and other criminals. Assault weapons go by names like: "Street Sweepers," "Bushmaster," "Paratrooper," and the "Commando."

The ease with which these weapons can be obtained is fueling the arms race on the streets of every community in America. There is no reason that individuals should find it easier to acquire assault weapons than it is to acquire a drivers license or a pet cat.

Sales of assault weapons across the United States increased from 4,000 in 1985 and 1986 to over 40,000 in 1988 and even more last year. In the past few years, tens of thousands of assault weapons have entered the United States.

Many of these guns wind up in the hands of drug dealers who use them against officers of the law and innocent bystanders. Jamaican drug traffickers have smuggled over 1,200 assault weapons to dealers in the North. Sophisticated firearms have been seized in more than half of all crack arrests.

The popularity of assault weapons among criminals in the United States and drug traffickers in South America continues to grow. For the first time since police began categorizing weapons by type, semiautomatic pistols are outdistancing revolvers and all other

firearms as the weapon of choice of criminals. According to a recent study of Bureau of Alcohol, Tobacco, and Firearms weapons tracing records, in the 15 months between January 1, 1988, and March 27, 1989, semiautomatic models moved ahead of revolvers and the trend toward semiautomatics continues. In addition, despite the fact that only 0.5 percent of the 200 million privately owned guns are assault weapons, those guns turn up in disproportionate numbers in a variety of crimes:

Nearly 30 percent of all firearms traced to organized crime, gun trafficking and terrorist crimes in the past year were assault weapons;

Nearly 12.4 percent of the weapons traced to narcotics crimes were of the assault variety.

The use of assault weapons in crime rose more than 78 percent in 1988 over 1987.

The addition of assault pistols to the prohibition is crucial. Not only are many of the assault pistols on the market as lethal as the assault rifles, they are easy to conceal.

Gun industry catalogs market assault pistols by freely noting that they have relatively little sporting use and are primarily designed for military and combat purposes: Jane's Infantry Weapons describes the Uzi assault pistol as:

A shortened and lightened modification of the Uzi submachinegun * * *. It has been designed for civilian use, but there are obivious applications to military and security forces.

A test report on the British made Sterling Mark 7 assault pistol describes it as a "pistol * * * in name only; it is an assault weapon."

The Gun Digest Book of Assault Weapons describes the Spectre pistol as:

A semiautomatic pistol, with all the submachine gun features. It accepts the standard submachine gun magazines.

The Gun Digest also made the following general statement about assault pistols:

You can buy perfectly legal versions of the Uzi, MAC-10, M-16, Sterling and countless other modern assault weapons. The vast majority of these weapons were built for and sold to the same individual that wanted a souvenir M-1 rifle or carbine.

Special Weapons magazine talks this way about the Uzi carbine, minicarbine and pistol:

Let me first say that the prime design purpose of the weapons covered here is combat.

Lest anyone doubt the popularity or killing power of assault pistols as compared to assault rifles, keep in mind that a Cox Newspapers study concluded that three of the five weapons most often traced to crime in 1988 were the following assault pistols: MP-25, J22, and TEC-9. The same study noted that,

For the first time since records on firearms used in crimes have been kept in the United States, semiautomatic pistols outnumber revolvers.

Similarly, the Washington Times reported last year that experts have described the MAC-10 as the "Weapon of Choice" for Colombian assassins because the small assault pistol fires powerful .45 caliber ammunition at a rate of hundred of rounds per minute.

Cox concluded that while assault guns make up only 0.5 percent of the 200 million privately owned firearms in the United States, in 1988 and the first quarter of 1989, assault guns showed up in nearly 30 percent of all firearms traced to organized crime, gun trafficking and crimes committed by terrorists in the United States. Out of 385 weapons traced by the Bureau of Alcohol, Tobacco and Firearms [BATF] at the request of the Colombian Government, the majority were found to have been bought illegally in the United States.

Cox:

Semiautomatic guns patterned after military firearms are the favored weapon of a growing number of criminals, especially violence-prone drug gangs that infest larger U.S. cities.

Cox:

Of the thousands of gun models sold in the United States, just 10 of them—all members of the so-called assault gun family—accounted for 12.4 percent of the Nation's drug-related crime.

Cox:

In sheer numbers, assault guns were most common in drug-related crime, accounting for 12.4 percent of all narcotics firearms traced. On the west coast, that frequency jumped to 21 percent, and in Arizona to 38.6 percent.

Over 2 years ago, when our national drug director was Secretary of Education, William J. Bennett urged the Reagan Justice Department to take action on assault weapons. Bennett concluded that:

The easy access to firearms has put increasing firepower 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.

Secretary Bennett clearly understood the increasing linkage between drugs, guns, and drug-related crime. The organized narcotics trade generates enormous amounts of cash and huge amounts of narcotics.

Guns are the tools of protection for organized drug traffickers.

One week after Bennett became drug director, he persuaded President Bush to examine the dangerous spread of assault weapons like the AK-47. Within weeks, Bennett announced the administration's decision to halt importation of a specific list of foreign-made assault weapons, compiled after thorough examination of the issue by a panel of experts at the Bureau of Alcohol, Tobacco and Firearms.

The BATF experts examined each weapon and surveyed gun clubs and other experts before it arrived at its conclusions.

The Bush administration's 1989 ban on a specific list of assault weapons imports is a significant step in the right direction and I applaud it.

The real test is whether Congress has the will to apply the logic of the Bush administration's ban on certain assault weapons imports to assault rifles made in America and sold over the counter with few questions asked. The import ban only encompasses 25 percent of the assault weapons in the United States.

The 75 percent that are manufactured domestically include the TEC-9 and the Ruger Mini-14 which are among the weapons of choice for narcotics traffickers.

Congress must take the next step and ban domestic production.

The time is long past for Congress to enact legislation to ban the sale and transfer of assault weapons, while protecting the interests of law-abiding citizens. Until we tighten the controls on the sale of these and other dangerous weapons whose only use seems to be to kill human beings, the proliferation of assault weapons and the senseless violence they cause will continue.

Critics of this proposal argue that it is too broad and that it will effectively ban most semiautomatic rifles, shotguns, and pistols. This is plainly wrong.

The National Rifle Association and other critics try to equate assault weapons with all semiautomatics. While all assault weapons are semiautomatics, very few semiautomatics are assault weapons. Of the estimated 20 to 30 million semiautomatics in existence, roughly 1 million—3 to 5 percent—are assault weapons; because this proposal is not comprehensive, an even smaller number would be covered under the Democratic proposal.

Do not be misled by other criticism of this proposal:

It would not give the Treasury Secretary or the Bureau of Alcohol, Tobacco and Firearms special authority to ban all sales of new semiautomatics; it would neither require gun owners to register semiautomatics nor require that they submit to an FBI background check for each such weapon they currently own;

Gun owners would not be required to pay a transfer fee because of this legislation;

Semiautomatic gun owners would not be required to obtain written permission from the Treasury Secretary to transport a semiautomatic weapon across State lines; and

This legislation would not result in punishment for an inadvertent failure to follow its requirements.

At a time when budget constraints make it difficult for law enforcement agencies to outfit themselves with basic crime-fighting equipment, drug dealers and other criminals are increasingly able to expand their own firepower by purchasing assault weapons. Too often, measures which would restrict such purchases fail because of the gun lobby's inability to distinguish between the interests of legitimate sportsmen and the serious problem of gun crimes in our society.

For those who wondered whether senseless daily gun 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. And for those, like the National Rifle Association, who opposed our efforts during deliberations on the 1988 Anti-Drug Abuse Act to limit paramilitary weapons, and others who opposed our efforts to prevent gun violence in schools, we know how wrong were their claims that existing laws are adequate.

This legislation bans the sale and transfer of assault weapons, while protecting the interests of law-abiding citizens. Until we tighten the controls on the sale of these weapons, their proliferation and the senseless violence they cause will continue.

Some of the witnesses who testified before the Judiciary Committee during hearings on assault weapons, like some opponents of this amendment, would have us ignore the weapons and deal only with the criminals. Their arguments are half-right. We should be doing more to combat the criminals.

But we should not ignore the weapons they use or the countless law enforcement officials from around the Nation who plead for help in stemming the flow of ever-more powerful guns.

Legislation to restrict assault weapons has the overwhelming support of the Nation's police, including the 90,000-member National Association of Police Organizations, which has indicated that it will—

• • • vigorously support the provisions of [the Democratic crime package] as a moderate but responsible measure designed to deal with the proliferation of weapons which have no purpose other than to gun down and maim police officers and other innocent citizens including young children.

In its letter to Members of this body, the National Association of Police Organizations emphasized that:

[T]he Bush administration already has banned the importation of these lethal weapons of mayhem.

The Senate must now follow suit with legislation which would ban their counterparts.

This issue is literally a matter of life and death for the law enforcement officials who support these proposals.

In Escondido, CA, a diagnosed schizophrenic walked into a gun store in December 1987, lied on his Federal form about his arrest record, mental condition, and drug use, and purchased the Norinco variation of the AK-47 assault rifle. The following day, under the influence of methamphetamines, he used his new acquisition to kill a San Diego County Deputy Sheriff, wound two other deputies, and hold police off for over 12 hours. The ensuing shootout resulted in the exchange of 300 shots.

In December 1988, a Dallas police officer was killed while making an undercover narcotics purchase. The weapon used was a TEC-9 assault pistol.

Last spring, a MAC-11 assault pistol was used by a man in Louviers, CO, to kill himself, but not before he used it to kill a woman and her mother and wound a police officer.

Last August, a New Jersey State trooper was shot four times in the chest and abdomen by drug traffickers wielding a MACK-11 assault pistol.

The 200,000-member Fraternal Order of Police and the 3,300-member National Sheriffs Association and the other leading law enforcement organizations across this country support this measure. They are on the front lines of the war on crime. They know what is needed, and so does the Senate.

Once again, I commend the Senator from Ohio for bringing this amendment to the Senate which, as I say, I believe will do more about peace, stability, and tranquillity in our communities than perhaps anything else in this bill. I thank the Senator.

Mr. METZENBAUM. Mr. President, I thank the distinguished Senator from Massachusetts. Over a period of years, since I have been here and before I got here, he has been in the forefront in attempting to remove the guns from the streets of America.

He has had courage. He has spoken up and spoken out and sometimes under very difficult circumstances. But his support is very meaningful to us in connection with this amendment. We are very grateful to him for coming over to speak in behalf of it. I think what we are talking about is so well enunciated by him.

This is not a very controversial issue. This issue really says, Do you believe that the streets of America should continue to be filled with gun dealers and racketeers and criminals who have weapons that are stronger, more effective, more powerful than the law enforcement officers of this country?

This concerns me, as I stand here at this moment and I say to myself, Why is it this way? Why do my colleagues in the Senate not have the courage? They have courage in so many other areas but when it comes to the NRA and this one issue of guns, so many buckle under, so many say: "I wish there were not an amendment coming to the floor. I wish I did not have to vote on it."

I can only say this: The American people are on my side, whether the NRA is or is not, and obviously they are not. The fact is if there is some particular language in my amendment that you are not comfortable with, then we will change it. But overall the issue is, Do you want to permit an unlimited proliferation of guns, semiautomatic weapons, in the hands of the criminals, or, today, are you prepared to stand up and cast a vote for law and order and cast the vote for those little children who were mowed down in a California schoolyard?

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

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I do not believe the American people as a whole do support his side. Frankly, polls sometimes show remarkable numbers because polls are asked in different ways. If the American people knew that their right to keep and bear arms is going to be removed because of these types of activities, I think they would vote this down overwhelmingly.

Second, I have never seen the criminals in this country have any difficulty at all getting these weapons. They can get them. They do not worry about registration. They do not worry about the BATF or all these laws, rules, and regulations that are going to be saddled, if this amendment passes and the underlying amendment, upon good, law-abiding, decent sportspeople. That is what is really involved here, more Government.

Let me tell you another thing. This is an important issue. The very people who support these types of amendments when it comes time to getting really tough on crime, when it comes down to capital punishment, which we know deters, not only specifically because that person is never going to commit murder again, but generally, and it deters among some of the worst criminals on this Earth, not only because of capital punishment, but in so many other ways when you try to strengthen the criminal laws of this country they worry more about the rights of criminals than the rights of victims. I think it is important to worry about both sides.

Our Constitution protects criminals' rights and that ought to be maintained, and we ought to get as tough on criminal activity in this country as we can. If you want a perfect illustration of how easy some of these people are in this body on crime and criminal activity, look at S. 1970 and compare it

to the Thurmond substitute, and I think it will give you a pretty good insight into what is really going on here. We are talking about law-abiding, decent people.

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. HATCH. I would like to not do it on my time if I could help. I will yield on the Senator's time.

Mr. METZENBAUM. I do not have time remaining.

Mr. HATCH. Mr. President, what is the time situation?

The PRESIDING OFFICER. Nineteen minutes and twenty seconds.

Mr. HATCH. I yield to the distinguished Senator for a question.

Mr. KENNEDY. Mr. President, will the Senator outline what sporting purposes it would have?

Mr. HATCH. I make it clear the action on all these rifles is exactly the same as long hunting rifles. It is difficult to determine the difference between the two. I cite the particular time according to BATF that would lead to banning all long hunting rifles with similar actions. That is what BATF tells me.

The second amendment is not just sporting weapons either. Section 3, according to BATF, the Department of Treasury says:

> Section 3 of both bills would define the term "assault weapon" to include: (1) certain named firearms, (2) all models of the named firearms, and (3) any firearms which have an "action design which is identical or nearly identical to the named firearms." The meaning of the phrase "action design" is unclear and its inclusion within the definition of assault weapons could be interpreted to include many conventional sporting semiautomatic weapons.

That is how radical this amendment is. That is why so many of our sporting people are up in arms objecting to this type of stuff. What I am saying is let us get tough on the criminals. Let us quit getting tough on the people who are sports-related people, who are honest and decent. That is the story that is never asked in these polls.

The American people are basically fair. They know that we have had time-honored rights to go hunting and use guns for sporting purposes and teach our kids how to target shoot, and so forth. They would resent it if they knew that this type of activity is for no other reasons than to take guns away from people who have always abided by the law and frankly those who do not abide by the law would have access to them anyway.

I challenge friends on the other side to get tough on crime. Let us not get tough on the law-abiding citizens. Let us really do some habeas corpus reform. Let us do get the death penalty, the strong penalty used only in the most heinous crimes and most vicious committed crimes and let us stop these 16- and 17-year multiple appeals going on that cost the taxpayers millions and millions of dollars that are frivolous.

Mr. KENNEDY. Does the Senator support the Bush ban?

Mr. HATCH. I do not.

Mr. KENNEDY. The Senator does not.

Mr. HATCH. I believe it is taking away rights of decent, law-abiding citizens, and I think the President even has second thoughts about it.

Mr. KENNEDY. Does the Senator differ with the police organizations who are risking their lives every day and have indicated support of these particular proposals? Does the Senator think that they are representing the legitimate interests of policemen and women across this country who are on the frontline, and many of them are members of the NRA, or does the Senator think they are being duped, too?

Mr. HATCH. Let me answer that question. I think if a poll were taken of the vast amount of law enforcement officers of this country, they would vote this amendment down almost 100 to 1. Let me tell the Senator another thing. Every one of those police officers that I know of or at least the vast majority are for the death penalty, too.

Do not use the argument on me and argue against the death penalty on the other side of this case.

If I could, Mr. President, the fact of the matter is that the leaders of some of the police organizations do support the DeConcini amendment. The rank and file do not. I have to tell you there is going to be a lot of uproar over this. The fact is that the officers on the streets, some of them do support that, but the majority of them do not.

But I will tell you almost to a person they all support capital punishment in these vicious, rotten murders that are going on in our society by vicious, rotten people who sometimes get out and murder others, some of whom are on death-row and murdered some of the officers in the jails and penitentiaries. They are in because of multiple appeals and other soft things we are trying to do all the time in this body.

This is our chance right now on this crime bill. It is our chance to get tougher on these criminals. It is our chance to put our money where our mouths are. I have to admit that it is important to always take care of constitutional rights, but I think there are constitutional responsibilities, too. I just want to say that there are victims' rights that are not being taken care of every time we are soft on crime.

Mr. METZENBAUM. Mr. President, will the Senator from Utah yield for a question on my time?

Mr. HATCH. If I could, let me yield to the distinguished Senator from Wyoming because I have to leave the floor for a minute.

I yield such time as the distinguished Senator from Wyoming needs.

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

Mr. SIMPSON. How much time is remaining?

The PRESIDING OFFICER. The Senator from Utah has 13 minutes 51 seconds remaining and the Senator from Ohio has 5 minutes and 3 seconds remaining.

Mr. HATCH. I yield 8 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 8 minutes.

Mr. SIMPSON. Mr. President, I see my good colleague from Massachusetts is not in the Chamber. I wanted to respond to him in the best faith on this. Senator METZENBAUM is also carrying on a cause that he has long held dear.

The issue is so clear, if we just try to keep in mind the difference between those of us who live, say, in a State like Wyoming and those who live in, say, the State of Massachusetts. There are signs at the border of the State of Massachusetts that say that anyone who is apprehended with a weapon in their possession is given an automatic fine of $100 and a prison sentence. I cannot remember the exact punishment.

It is very clear that such a border sign in Wyoming would be totally offensive and unbelievable. Wyomingites would never understand why a person in Massachusetts would be punished for that, any more than a person in Massachusetts could understand a person of good intellect, and sharp as a tack, with a gun in the back of his pickup on a rack, that he uses to shoot coyotes and other predators. It is a sport weapon, and the owners simply go about their lawful business. There it is right there. These gun owners are not slobbering beasts just tooling along the highway looking for a fellow human being to blast away. Making that distinction is the tough part of this issue.

I knew Jim Brady before he became a part of the Reagan administration. He has been one of my loveliest friends since I came to Washington. His wife Sarah is a magnificent lady who goes all across this land talking about these kinds of things. She does it with great passion, great logic, and great patience. But this amendment brings us to the point where we really are intruding on a person's right to own a weapon, which happens to be a semiautomatic.

I know it is hard for people to believe, but there are things like .270 rifles that are magnificent hunting weapons. I have one. I shoot deer. I do not mount them. I eat them. I do not get some macho kick out of that.

Some people go out and bang cattle in the head every day, butcher them,

and eat them. Nobody says anything about that. But if you say that you go out and get a deer around here; people go crazy. They think you are some kind of a sadistic nut. So that is what you have to deal with when you deal with these gun control issues.

This amendment is really an infringement. It is an infringement on certain weapons people use lawfully and appropriately—Ruger semiautomatic, .22 rifle, for instance. My daughter is a better shot with one than I am, and she does not kill anything. She dislikes hunting. But she does enjoy target shooting. That type of legal activity is exactly what you are reaching with this amendment. I know it is hard to believe. Do not throw anything—but it is true.

I cannot say it clearly enough. I do not think anyone here "buckles under" to the NRA. The NRA is speaking for, obviously, a great number of American people. If we really are listening to the American people, which we say we are—we are going to find out in a few minutes with this vote. Because we represent the American people—we will find out how they feel about this. But what the American people really feel is: Put these guys in the clink. Take this screwball Purdy, who blasts away little children—a terribly brutal and savage act. He opened fire. Put him away. Help us do that.

Why do the proponents of this amendment not help the American citizens "salt away" some "animals," who are worse animals than the animals you could ever go hunting for and kill with a gun? These criminals have no remorse. Read what is happening in New York City. The fabric of that city is breaking down because 13- and 14- and 15-year-olds are allowed to do anything they want to, apparently. They do it with gusto and savageness. They have no remorse. Start putting those people in the clink. Get capital punishment going. Get habeas corpus petitions restricted and reduce all the things we go through in the exercise of an effort to put these particular people away. Let us lay some heavy penalties on them. Help us do that. Then we will see where we have to go to refine the law and we will begin to make corrections.

There are some real "nuts" out there. That is what the American people know. Do we think the American people are going to sit still in their homes while a bunch of "nuts" are running around on the outside? This debate is being watched somewhere. Probably in prisons around the country they are sitting there in their cells watching television and just giggling; saying, "What do you think that means to us? We will get our guns any way we want them. That is the hideous background laughter to this debate.

I hope my colleagues will keep another thing in mind. Those of us who support the constitutional right to keep and bear arms are not some kind of hideous people who really do not care or who get some macho kick out of carrying guns on our hips out in the wild West. That is not what we are talking about.

My grandmother was a very gentle, and genteel, woman. She lived to be 100. She always "packed a little iron" toward the end of her life. She did finally put it under the bed. We all thought it was quite good of her. It was a very gentle little derringer she had for many years. She said:

> That is what I learned about living in the West. I had people who tried to take my babies and my animals, and sometimes this is the only way I could protect myself.

So it really is not as bad as my colleagues think. I say to people, help us put away these sick, sick people, who are in our society, instead of allowing them to get out time after time, helped by a bunch of "bleeding hearts" who just outdo themselves.

I always say: "Button your shirt, your heart fell out. Let us 'try 'em and fry 'em.'" That will start a lot of good action in the United States. It will stop a lot of crime, and we will not have to worry so much about the legal use of guns.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. Six minutes and 20 seconds to the Senator from Utah controlled by the Senator from Idaho; 5 minutes and 3 seconds controlled by the Senator from Ohio.

Mr. McCLURE. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 3 minutes.

Mr. McCLURE. Mr. President, I want to take this time to indicate, partially, a response to what the Senator from Massachusetts said a moment ago. I wish he were on the floor to hear this comment. I hope he is hearing it elsewhere.

There is an organization known as the Law Enforcement for the Preservation of the Second Amendment. That does not come from the wide open spaces of Idaho nor the big game hunting territories of Wyoming. That organization is headquartered in Waterford, NJ. I will not take the time to read the names of all the people that are on a partial list of steering committee members for that organization, but there is a sergeant from Arizona, a deputy sheriff from California, there are others from California, a lieutenant from Florida and a deputy sheriff from Florida, a sergeant from Illinois, a major from Indiana, an officer from Kansas, a trooper in Louisiana, a detective sergeant in Mississippi, and a police chief in New Hampshire, a police officer in New Jersey, a deputy sheriff in New York, a police chief in Ohio, a sergeant from Ohio, and a sergeant from Utah. That is just a partial reading from a listing of the steering committee members of the Law Enforcement for Preservation of the Second Amendment.

I want to read just one portion of this statement from them.

> The thousands of law enforcement officers belonging to LEPSA believe that such legislation is not only unreasonable and unworkable, but will breed contempt for the law, and those of us who enforce it.

Mr. President, I ask unanimous consent that that entire document be printed in the RECORD at this point.

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

> LAW ENFORCEMENT FOR THE PRESERVATION OF THE SECOND AMENDMENT,
>
> *Waterford, NJ, January 23, 1990.*
>
> To: Members of the U.S. Senate.
>
> From: L.E.P.S.A.
>
> Subj: Unreasonable/unworkable legislation.
>
> The entire membership of LEPSA, a law enforcement organization with constituents in all 50 states, urges you to scuttle any attempt at passage of S. 1970, S. 1971, and S. 1972. In short, we would urge you to rebuff any attempt at banning any type of firearm, under any pretext. Those few positive aspects embodied within these bills is negated by their intolerable attempt to ban firearms in the name of "crime-control". The thousands of law enforcement officers belonging to LEPSA believe that such legislation is not only unreasonable and unworkable, but will breed contempt for the law, and those of us who enforce it!
>
> We would wish to emphasize the need to consider constructive alternatives to the Biden/Thurmond notions that everyone should suffer for the criminal transgressions of a few. LEPSA is supporting legitimate crime suppression proposals; 1. Massive expansion of our nation's prison capacity through the utilization of unneeded military land assets for prison expansion, 2. Mandatory sentencing for crimes committed with firearms, and 3. Implementation of a "Point-Of-Purchase" firearms screening system (such as the one being studied by the U.S. Justice Dept.). Basically, all of these proposals involve little more than giving existing laws the teeth they now lack, and focusing all governmental energies on punishing criminals, rather than the general public. Those among us must suffer with every ill-conceived piece of legislation that we are compelled to enforce. Whatever "good intentions" lie beneath these bills won't mean anything on the street. Without adequate prison capacity, and through misdirecting your energies, we as lawmen will look upon your efforts as nothing more than "legislative masturbation". For these reasons we urge you not to support these bills.
>
> Sincerely,
>
> THOMAS J. AVENI, JR.,
> *LEPSA Founder/NJ Rep.*

Mr. McCLURE. Mr. President, I also wish to make reference to a publication, the Dickson Herald, Dickson, TN:

"Cops Speak on Gun Ban," a "public voice," published in that newspaper.

The following headlines probably sound familiar to you: "Police Bitterly Oppose NRA Stand." "NRA Defends Cop Killer Teflon Bullet." "Tough New Gun Laws Needed to Keep Guns From Criminals." "Assault Rifles Should Be Banned." These headlines share one common feature. They are all false.

The article goes on to make a statement on behalf of law enforcement officers from Dickson, TN, in opposition to this type of legislation.

I ask unanimous consent that that article also be printed in the RECORD in full at this point.

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

[From the Diekson (TN) Herald, Mar. 29, 1990]

COPS SPEAK ON GUN BAN

The following headlines probably sound familiar to you:

1. "Police Bitterly Oppose N.R.A. Stand"
2. "N.R.A. Defends Cop Killer Teflon Bullet"
3. "Tough New Gun Laws Needed To Keep Guns From Criminals"
4. "Assault Rifles Should be Banned"

These headlines share one common feature, they are all FALSE!

Take number one for example. The vast majority of America's rank and file street cops support the N.R.A. in every way. A high percentage of cops are members of the N.R.A.

Now look at number two. There does not seem to be a single documented report of any cop ever being killed by a teflon-coated bullet. Besides, many non-teflon bullets can out-penetrate the so-called "Cop Killer" rounds.

And now number three. This is one of our favorites! You don't have to worry about armed criminals—if they are behind bars where they belong! Patrick Purdy killed five children on a playground recently, yet prior to that he was set free by the courts on seven occasions after being arrested for serious crimes! In addition to that, he was classified as mentally unstable! So instead of putting him away, our system allowed this mentally unstable multiple offender full freedom—to kill at his will! And his case is identical to thousands of others, it is not an isolated incident.

And now number four. Lawmakers are banning assault rifles because Patrick Purdy killed five children with one. He could have killed that many innocent children with a bowie knife, then the lawmakers could go after knives. He could have driven a car through the playground killing far more than five children, what then?

When will we start making criminals pay for their deeds instead of decent citizens who own firearms for legitimate reasons? Why do lawmakers fear and detest armed citizens and at the same time pamper armed criminals?

We would all benefit from Criminal Control, but who really benefits from Gun Control? Two groups of people come to mind. First, the violent criminal-killers, rapists, muggers, burglars, robbers, kidnappers and drug dealers. These people would benefit in a big way-job safety! They will be armed no matter what kind of laws we pass, but YOU will be unarmed! The criminal is the predator and you will be his defenseless prey, thanks to the lawmakers you voted into office to serve your needs. If you were a violent criminal, wouldn't you support strict gun control? You bet! The second group of people who would benefit from gun control is Organized Crime. These "businessmen" would make gun and ammo running into a blackmarket venture equal to rum running of prohibition days. They would smuggle factory-made foreign guns and ammo into the U.S. by the tons. They would manufacture crude guns in underground machine shops. They would steal police and military weapons and ammo. And they would peddle these items on every street corner in America! If you were an organized crime boss, wouldn't you love a financial windfall like gun control? Of course! Does this make you wonder who is really behind gun control and who our elected officials are really being influenced by?

Nashville Police Chief Joe Casey and a few other law enforcement political figureheads may oppose the N.R.A. and your right to keep and bear arms, but most of us in law enforcement hope that the N.R.A. gets bigger and tougher each year and we hope and pray that your elected lawmakers can see things your way, so they can keep their jobs come election time! The word VOTE does ring a bell, doesn't it?

You have heard the old saying, "When guns are outlawed, only the outlaws will have guns." That's not true. When guns are outlawed, only outlaws, cops, and politicians (who took your guns) will have guns. Where does that leave you? Pinned down in the crossfire!

Some of us who signed this letter have been shot at in the line of duty. But you (the decent citizen) didn't do it, and we (cops) don't want YOUR guns, any of them, from AK-47's down to .22 pistols, no more than we want your cars, because drunks and reckless drivers kill 35,000 innocent people each year. Not even your high-performance sports cars!

In closing, we urge you to do two things. Join the N.R.A. today. It is the spearhead behind your constitutional right to keep and bear arms. Secondly call or write all of your local, state and national lawmakers and tell them how you feel. Tell them it is better to crowd prisons with criminals than to crowd our streets and neighborhoods with them. And tell them you have got as much right to own guns for self-defense as cops and lawmakers do. Tell them to protect your right to keep and bear arms or you will replace them with someone who will, when election time rolls around. Tell them: "The Cops" sent you!

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

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I heard discussions this afternoon about the guns we are talking about banning are really guns that are used for hunting. Here is one picture of one called the MAC-10. There is nothing about that gun anybody would use for hunting. That is not a hunting gun.

Here is the MAC-11. This is not a hunting gun. That is the kind of gun criminals use when they are on the streets. Here is another one, the Intratec or the TEC-9. That is not a hunting gun. That is the kind of gun that you use when you are a drug lord or drug dealer and you want to go out and protect yourself and maybe mow down some of your competitors and, worst of all, mow down police officers in this country.

You can give all the arguments you want about the police not being supportive of this amendment, but the fact is they are. You can say some members are not, and there is going to be some convention, they have gone to a convention. This is not new legislation. This is a subject we have been discussing for a long time, the fact is, and the issue is simple: Either you are with the law enforcement groups or you have yielded to the pressure of the NRA. That is how simple it is. It is not complicated at all.

I respect those who are not going to vote for this amendment. But let us face it, we have two divided sides: law enforcement on one side and the NRA on the other side.

I do not doubt some of my western colleagues who have already spoken feel very strongly about this amendment. They talk about capital punishment. Capital punishment has nothing to do with this particular amendment except if you happen to be a police officer, you are the one who is giving of your life, and that is a kind of capital punishment as far as they are concerned.

I say this is a very simple issue. Sure, there will be some old ones that are out there, but we will get rid of those eventually because there is nothing in the bill that would take away the guns that are presently owned. But if you bought a new one and you were caught with it, you would be in violation of the law. I think that is a step in the right direction.

It will not solve the problem completely, but it is the least we can do to try to save the lives of the law enforcement officers of this country.

I reserve the remainder of my time.

Mr. McCLURE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Idaho has 3 minutes 17 seconds. The Senator from Ohio has 2 minutes 37 seconds.

Mr. McCLURE. I thank the Chair. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. McCLURE. Mr. President, I guess if I were in the position of the Senator from Ohio, I would try to make it that kind of either/or. Either you are for policemen or for the NRA. The fact of the matter is law enforcement officers by and large, and certainly by the tens of thousands across this country, do not agree with the statement that was just made. It is not that kind of an either/or statement.

There are millions of citizens across this country that regard this as a constitutional right switch. Are you going to tamper unnecessarily and needlessly with the rights guaranteed to us by the Constitution of the United States; are you going to give cavalier, back-of-the-hand treatment to something that has been very carefully protected over the years?

Certainly, the Senator from Ohio and others are correct; that right to keep and bear arms is not an unlimited right any more than is the right of free speech. But we are concerned every time there is an infringement upon the right of free speech with that infringement upon a constitutionally guaranteed right.

I submit to my colleagues, we should be no less careful in this instance dealing with second amendment rights than we are with dealing with other rights guaranteed to us under the Constitution.

Mr. President, this is not just the kind of line described by the Senator from Ohio with the good guys wearing badges on one side and the bad guys being NRA members on the other side. NRA members are friends of mine. The organization is a fine organization, in my view.

The Senator from Ohio has a right to have his opinion about the NRA as an organization, and about the individuals who are dues-paying members of that organization. That is not something I share with him in condemnation of those people who feel very strongly about the Constitution and the rights guaranteed in the Constitution.

If you really believe this amendment will help effect law enforcement, then I think you are misled. If you really care about law enforcement, then do enact tough laws with respect to the incidence of crime. Get criminals off the street; get them put in jail; do something about habeas corpus; do something about the exclusionary rule; do something about capital punishment. On those, you will find almost unanimous agreement among law enforcement officers. They are in favor of those steps. They are not in favor of this step.

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

The PRESIDING OFFICER. Who yields time? If neither side yields time, time will be deducted equally. There are 28 seconds remaining on the side of the Senator from Idaho, and 2 minutes 37 seconds remain for the Senator from Ohio.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have time left. I will not take it all. I just want to conclude my remarks with a quote given by one of the law enforcement officers today at a press conference the law enforcement organizations had indicated their support of my amendment, and for Senator DECONCINI's amendment. I think it sums it all up, and I think it is just eloquently stated. He said: "I am tired of going to my brothers' funerals."

I think that is what this amendment is all about. "I am tired of going to my brothers' funerals," as a law enforcement officer said. That is what this issue is that is before us.

My President, I am prepared to yield back the remainder of my time, if my colleague is.

Mr. MCCLURE. Mr. President, I think I have 28 seconds left. I do not mean to try to get the last word in. I will repeat that back to the Senator from Ohio when we are dealing with getting criminals off the street.

I yield back my time.

Mr. DOLE. Mr. President, I rise to congratulate my colleague from Ohio for offering an amendment which, under the theory that reductions in crime will only occur when we ban all the guns, is a better amendment than the underlying DeConcini amendment.

The Metzenbaum amendment specifically bans more guns outright and gives discretion to unelected bureaucrats to ban the rest of the guns when they feel like it. I assume if any guns remain available after these first two swipes, we would get them under an amendment next year.

But, what do we really get with this amendment? Why should we not ban these assault weapons, this sole reason that we have crime on the streets of America?

First of all, the term assault weapons is traditionally applied to rifles used by the military, like the M-16. The key feature of assault weapons is that they can, by the flip of a lever, be made into either a machinegun—which is correctly called an automatic firearm—or into a rifle which shot one bullet at a time—which is correctly called a semiautomatic when it uses this type of loading mechanism or action.

Under Federal law, true assault weapons are already banned using the definition of "ban" employed by both Senators METZENBAUM and DECONCINI. But, they are not really banned; a law abiding citizen can still obtain and legally possess one. The only difference between these and other firearms is that new ones cannot be manufactured and a Federal permit and background check are required to purchase and possess a true assault weapon.

So, the Metzenbaum amendment merely seeks to change the definition of assault weapon, arbitrarily, by a list which we are told represents the source of evil.

But the list is arbitrary. It creates a category that is neither fish nor fowl. Currently, we treat automatic weapons as one category, and firearms which shoot ony one bullet or shell with each pull of the trigger as a separate category.

The Metzenbaum amendment creates a category of pistols, rifles, and shotguns that have as the only common denominator the distinction of appearing on the Metzenbaum list.

They aren't assault weapons, because they are not automatic weapons—or machineguns—they are Metzenbaum weapons.

The second problem I have with the Metzenbaum amendment is that creates even a further category—the bureaucrat list. The new result would be to change today's law to say there are two types of guns. The first category would be machineguns, Metzenbaum guns, and bureaucrat guns. The second category would be guns which remain to be banned.

Rather than trying to create distinctions where none exist, we should stop those individuals who will abuse the responsibility of gun ownership. First, all felons, illegal aliens, those dishonorably discharged from the military. These individuals are already prohibited from owning firearms, and we have a program which, while being implemented slower than we would like, will be able to immediately identify them through a computer. Just like a credit check which is undertaken when someone uses a credit card, we will have a computer check on everyone buying a firearm.

And this will work, except in one instance. And I would challenge my colleague from Ohio to help find the solution to the remaining category—those who have a mental impairment to the extent that gun ownership should be at least temporarily denied. Proponents of gun bans cite celebrated cases—John Hinkley shooting President Reagan and his Press Secretary, Jim Brady, Patrick Purdy shooting the schoolchildren in Stockton, CA, Joseph Wesbecker shooting fellow employees at a print shop in Louisville, KY, or Lori Dunn who shot schoolchildren and herself in a suburb of Chicago. While they do not mention it, they could add Charles Whitman who killed 15 people while firing from the clock tower on the campus of the University of Texas in August 1967.

The common thread here is not the type of gun, but that they all had some contact with mental health professionals. This is a difficult but real problem. If we had some way to identify these killers, to keep guns—all guns—from them, these tragedies would not have occurred. As I said, the type of gun was not important, all guns have the ability to kill.

We must find some way to keep guns from falling into the wrong hands, and I hope my colleague will join me in finding that true solution to our problem.

Mr. CHAFEE. Mr. President, I have listened carefully to those in favor of assault weapons ban and also to those who adamantly oppose such bans. Many arguments have been made, and debate has been sharp.

The law enforcement community wants an assault weapons ban. They view such a ban as a crime control tool. Right now, they are waging war against criminals who are stocked with firepower worthy of Rambo. Criminals who are better stocked than some small armies, it seems to me. If we are serious about fighting crime, we should help those out there who are doing the fighting for all of us.

Assault weapons represent less than one-half of 1 percent of all privately owned firearms. Yet a comprehensive survey of Bureau of Alcohol, Tobacco and Firearms' gun trace requests shows that assault weapons are 20 percent more likely to be used for crime then any others.

Last year, after studying 50 kinds of weapons, BATF advised the President that all but 7 were not being used for hunting and sporting purposes. The agency looked carefully at the guns, looking for components that point to military—not hunting or sporting—use. Examples of these components are large-capacity ammunition magazine, a folding stock, silencers, bayonets, barrel shrouds. Hunters and target shooters don't need these things. Military fighters do. And drug dealers do. Based on this knowledge, the President banned the importation of 43 types of assault rifles, and he deserves great credit for doing so.

An import ban, however, cannot stop domestic manufacture of assault weapons. And that means criminals—anyone—can still get these military-style guns. In fact, such weapons can be easier to obtain than a marriage license or library card. These are the same guns that can pierce concrete.

That availability is frightening. We have seen terrible massacres—Stockton, in Louisville—in the past couple of years by persons wielding assault weapons. Those senseless deaths filled Americans with horror and revulsion and a sense of loss; and every poll I've seen shows overwhelming public support for limiting the availability of these guns.

No one is trying to wrest hunting guns from law-abiding citizens. We are trying to keep military weapons away from criminals. Assault weapons like the AK-47 are designed for one thing only: to kill human beings. The Fraternal Order of Police, the National Association of Police Organizations, and the International Brotherhood of Police Officers are asking our help to get these military weapons off of our streets.

I believe this amendment will be a major step foward in achieving that goal.

The PRESIDING OFFICER. The Senator from Ohio has yielded back his time. All time is expired.

Under the previous order, the question occurs on agreeing to the motion to table the amendment of the Senator from Ohio [Mr. METZENBAUM].

Mr. McCLURE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. SYMMS] is absent on official business.

I further announce that, if present and voting, the Senator from Idaho [Mr. SYMMS] would vote "yea."

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

The result was announced—yeas 82, nays 17, as follows:

[Rollcall Vote No. 102 Leg.]

YEAS—82

Akaka	Ford	Mack
Armstrong	Fowler	McCain
Baucus	Garn	McClure
Bentsen	Gore	McConnell
Biden	Gorton	Mitchell
Bingaman	Graham	Murkowski
Bond	Gramm	Nickles
Boren	Grassley	Nunn
Boschwitz	Harkin	Packwood
Breaux	Hatch	Pressler
Bryan	Hatfield	Pryor
Bumpers	Heflin	Reid
Burdick	Heinz	Riegle
Burns	Helms	Robb
Byrd	Hollings	Rockefeller
Coats	Humphrey	Roth
Cochran	Inouye	Rudman
Cohen	Jeffords	Sanford
Conrad	Johnston	Sasser
D'Amato	Kassebaum	Shelby
Danforth	Kasten	Simpson
Daschle	Kerrey	Specter
DeConcini	Kohl	Stevens
Dixon	Leahy	Thurmond
Dole	Levin	Wallop
Domenici	Lieberman	Warner
Durenberger	Lott	
Exon	Lugar	

NAYS—17

Adams	Kennedy	Pell
Bradley	Kerry	Sarbanes
Chafee	Lautenberg	Simon
Cranston	Metzenbaum	Wilson
Dodd	Mikulski	Wirth
Glenn	Moynihan	

NOT VOTING—1

Symms

So the motion to lay on the table amendment No. 1676 was agreed to.

Mr. HATCH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah [Mr. HATCH] is recognized to offer an amendment.

AMENDMENT NO. 1681

(Purpose: To strike the gun provisions)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 1681.

Strike on page 46, line 15, through page 53, line 5.

The PRESIDING OFFICER. Under the previous order, there will be 3 hours of debate on the Hatch amendment, equally divided and controlled in the usual form. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, this amendment that I have just sent to the desk will strike all of the Antidrug, Assault Weapons Limitation Act, found in title IV of S. 1970.

As I have said before, the only real assault these so-called assault weapons provisions make is on the legitimate rights of law-abiding citizens.

As I mentioned during our earlier debate, the Bureau of Alcohol, Tobacco, and Firearms has no definition of assault weapons. The military definition—a selective fire weapon capable of firing in either an automatic or semiautomatic mode—is inapplicable to the commercial arena. Indeed, with the enactment of the Firearm Owners Protection Act a few years ago, the private purchase of new fully automatic machineguns is banned, and the possession of existing automatic machineguns is highly restricted, requiring an extensive background check and permission from both local law enforcement and the Federal Government before such a firearm can be transferred to a new owner.

The proponents of this particular bill, and similar restrictive legislation, have sought a workable definition of assault weapons, other than simply listing guns by brand name and model, but they have been unable to produce one.

The lack of a definition for assault weapons has been a major stumbling block to gun control advocates from the outset of the consideration of this legislation. The firearms listed in this bill employ a semiautomatic firing action. They are not, and I repeat not, fully automatic, neither are they readily or easily convertible to fully automatic. In fact, the semiautomatic firing action employed in these firearms is the same as the action found in every popular semiautomatic hunting rifle in existence today. As I mentioned earlier, the technology behind the semiautomatic firing action has been employed for well over 100 years.

We have overwhelmingly voted down an amendment to ban some semiautomatic firearms. We should support

that vote and vote to strike the ban on the rest of these particular weapons.

The committee report on S. 747, which is virtually identical to this legislation, states that the purpose of this bill "is to reduce the number of deaths and injuries attributable to assault-type semiautomatic firearms abuse by drug traffickers and violent criminals." The assumption by proponents of these bills is that drug traffickers and violent criminals rely on such firearms being available in the commercial arena. While this bill, if enacted into law, would reduce the number of these firearms available to law-abiding citizens, it will not restrict access to them by drug traffickers and violent criminals.

As the committee learned during hearings on the assault weapon issue, most firearms used during the commission of crimes are obtained through illegal means. It, therefore, seems highly likely that a drug trafficker who is able to smuggle large amounts of illegal drugs into the country will have little difficulty in obtaining these weapons by illegal means. I do not believe, based on testimony received by the committee, that the bill will affect the overall incidence of death and injury resulting from crime. If denied a particular type of weapon, a violent criminal will simply find another weapon to carry out his or her goal.

It has been argued time and time again, if Congress truly wants to reduce death and injury caused by violent crime and not merely shift the focus from one weapon to another, then the proper scope of any legislation should be directed at the criminals themselves. As long as the criminal justice system allows violent criminals to commit crimes with little or no threat of apprehension or serious punishment, it will not matter how many guns or weapons we actually ban. Criminals will continue to find weapons to use in their heinous activity, and law abiding citizens will experience an infringement of their constitutionally protected rights.

I believe that the most effective approach toward reducing death and injury due to violent crime must involve major adjustments to the criminal justice system. The Federal death penalty must be reinstated and enforced.

Both the exclusionary rule and habeas corpus proceedings must be reformed. Federal and State prison facilities must be expanded, and sentences requiring internment in those facilities must be carried out to their full term. We need additional law enforcement agents, prosecutors, and judges. In short, we need to reinforce deterrence in the criminal justice system by instituting certain firm and sure enforcement of our criminal laws. Some of these steps have been taken in the appropriations bills and the drug legislation that we worked on last year, but there is still much more that we can do.

I spent a great deal of time, during the earlier debate on the Metzenbaum amendment, discussing the form 4473 requirement under this bill. These requirements are only going to burden law-abiding citizens. It is burdensome; it is unfair. And I refer those interested to my prior comments concerning form 4473.

In summary, the second amendment is, I think, a valuable amendment, that provides each citizen of this country the right to keep and bear arms in order to help in the preservation of our freedom.

By banning the firearms listed in this legislation, Congress would seriously undermine that constitutionally protected right. Moreover, this bill will not keep the listed weapons out of criminals' hands, and, even if it did so, those criminals will be able to obtain other weapons to commit their crimes. While the ban on the listed firearms may serve the purpose of appearing to respond to the incidence of violent crime, in my view, such a ban constitutes only a form of gun control, not crime control.

Indeed, if the legislation's proponents had confidence in gun control as an effective means of crime control, then why do they sunset the underlying legislation after 3 years?

My friend from Arizona indicated on the MacNeil show earlier this evening they do not know how it is going to work, and therefore they have that sunset provision in, and that is reasonable. That will protect the public from abuse. That means 3 years of what we consider to be abuse and abusive practices. We have seen it happen in the past. That was the whole reason for the Firearm Owners Protection Act. It was on this floor a number of years ago, and I led the fight for it on this side. That bill stripped a lot of the laws from their abusive, bureaucratic, overly regulated approaches to the decent, honest, law-abiding sports people in this country.

I think, why do this? Why not go after the criminals? Why not do what we all know has to be done? Why abuse the decent, law-abiding, supporting people? this language does not belong in this crime bill.

I urge my colleagues to support this amendment to strike this language. I think it is important that we ban this language, and I think it is important that we do it straight up and that we make it clear that we are not going to tolerate the further abuse of decent, law-abiding, honest sports people. I think it is easy to get emotional over some injustices that occur in our society and some of the things that happen.

There is no use in kidding ourselves. None of us want anyone to suffer from the use of firearms. As a general rule, those who use firearms illegally do so because of the failure of our justice system, not because we need legislation like this that would actually make it more difficult for the decent, law-abiding, honest-sporting people of this country.

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

The PRESIDING OFFICER. The Senator reserves the remainder of his time.

Who yields time?

The Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, I rise in opposition to the motion to strike title IV of S. 1970.

The people of this Nation have spoken, and they have spoken loud and clear. In an age of increasing violence, it is important to note that in recent polls the American public has overwhelmingly supported Federal legislation banning the manufacture, sale, and possession of semiautomatic assault weapons. A Gallup poll conducted nationwide between February 28 and March 2 of last year found 72 percent of the American public in favor of such legislation. That is more than 7 out of every 10 people polled. When broken down between gun owners and nongun owners, 68 percent of the gun owners favored such legislation compared to 76 percent for nongun owners. The Gallup poll has since been confirmed in separate polls conducted by NBC, the Wall Street Journal, and CBS News.

A Yankelovich-Clancy-Shulman poll conducted for Time and CNN in February 1989 found that 84 percent of the American public thinks that violence from the use of guns is becoming a bigger problem in this country. In my home State of Arizona, where guns have long been a part of everyday life, 69 percent of the people polled believe that semiautomatic weapons should be banned. In the great State of Utah, a poll published in the Salt Lake Tribune showed that 74 percent of Utahns agreed with President Bush's ban on import of assault weapons. By a 2-to-1 margin, the people of Utah supported the Antidrug Assault Weapon Limitation Act which is in a provision in this bill also known as S. 747.

Mr. President, in recent months we have taken tremendous strides in the war on drugs. Yet the problems of drug use, drug-related crime, and drug-related violence continue to escalate.

The drug war has taken an enormous toll on families, on children, on jobs, on safety in our society, in our communities and neighborhoods, and on the very well-being of this entire country. As the Nation faces this enemy from within, all available resources must be brought to bear on the war on drugs.

I applaud President Bush and my distinguished colleagues for their solid commitment to taking the steps necessary to end the scourage of drugs in this country.

But I remain concerned, concerned for the safety of law enforcement officers who increasingly find themselves facing drug dealers armed with sophisticated equipment and heavy firepower.

In my own State of Arizona, law enforcement officials along the Mexican border wage a constant battle against smugglers who arm themselves with military-style weapons and other high-technology hardware firepower.

In our cities, gangs fight turf wars, armed with assault weapons, often killing or severely wounding innocent bystanders because of capability of spray firepower. Police officers and law enforcement groups from all parts of the country report that assault weapons are rapidly becoming the weapons of choice for drug dealers. We in Congress must not stand idly by while our police and the people of this Nation are subjected to the violent ravages of drug-related crime.

Our law enforcement officers are literally fed up with this situation. That is what was said today at a press conference. Indeed, every major law enforcement organization in America supports this legislation, including the Fraternal Order of Police, the International Brotherhood of Police Officers, the National Sheriff's Association, the National Association of Police Organizations, the Police Executive Research Forum, the Major Cities Chiefs, the National Organization of Black Law Enforcement Executives, and the Police Management Association. These groups want congressional action to avert another tragedy from occurring.

Over here to my left, Mr. President, is a detailed list of all the organizations that endorsed this particular section of the bill that is before us. They oppose the motion to strike offered by the distinguished Senator from Utah.

Mr. President, these assault weapons that I am describing are not simply handguns, hunting rifles, or sporting rifles. I am describing civilian versions of military firearms, often equipped with combat hardware, and designed for one purpose and one purpose only—pure, cold, killing efficiency.

Consider, for example, the AK-47, an assault rifle designed in Russia and currently manufactured in China and other countries. The AK-47, even in its semiautomatic civilian form, can fire up to 80 rounds of ammunition in 1 minute. One minute. The AK-47 is equipped with a flash suppressor, allowing the shooter to remain hidden at night. It will take a high-capacity magazine, allowing the shooter to fire multiple rounds without reloading. It has a pistol grip so that it can be spray-fired from the hip, and has a folding stock so that it can be easily concealed. Finally, the AK-47 has a barrel mount designed to accommodate a bayonet, which serves no sporting purpose.

That is the picture of the gun that is commonly used.

This is supposed to be a sporting rifle with a bayonet, with a muzzle suppressor so you cannot see where the shot is coming from. Tell me that that is used for hunting and I will eat the stock of it.

Speaking of the stock, it collapses, so you can fire it from the hip. These are literally not sporting guns in anybody's imagination and it is hard to believe we would see the resistance of the organizations to oppose the banning of these weapons and making it illegal to possess them.

Consider also the TEC-9, manufactured in Florida and traced to one in five crimes involving an assault weapon in the United States. The manufacturer calls this gun "as tough as your toughest customer." Among other things, the TEC-9 has a threaded barrel designed to accommodate a silencer, and is equipped with a 36-round magazine. It also has a barrel shroud which cools the barrel during rapid firing and allows the shooter to grasp the barrel during rapid fire without incurring serious burns. Gang members love this gun because in their drive-by shootings from their automobiles and assaults on other people, they do not have to aim; they just spray. Tell me that that is a gun you are going to shoot wild turkeys or deer with, and you obviously cannot sustain that. With the multiple shots they have a greater chance, the organized crime and drug dealers have, of hitting someone because they can spray that firepower.

An example is officer Dan Pratt of the Los Angeles Police Department who was killed in a drive-by shooting. Fifteen shots were fired at him but only one hit him. That was enough to kill him, and he was armed with a revolver.

Mr. President, these assault weapons were never intended for hunting or sporting purposes. Silencers, barrel shrouds, pistol grips, bayonets, folding stocks—these are the trademarks of assassins, not sportsmen. And, I am sorry to say, they are rapidly becoming the favored tools of the drug lords and violent criminals. These weapons were designed solely to conduct modern warfare; that is exactly what drug dealers are using them for in their war against police.

Let me support that statement with some specific examples.

On August 23, 1989, a New Jersey State trooper was shot four times in the chest and abdomen by three drug dealers armed with a MAC-11 assault weapon after the trooper pulled them over for a routine traffic stop.

I will put the MAC-11 picture up there so we can get a quick picture of what the MAC-11 looks like. That is the typical type of weapon that the drug dealers are using today to combat law enforcement. I am sorry to say the law enforcement in Arizona and most agencies do not have that kind of weapon yet to respond.

On June 15, 1989, Arizona Department of Public Safety officers raided a Tucson, AZ, home, seizing five AK-47's, an assault shotgun, ammunition, $3,000 in cash and an ounce of cocaine.

On March 23, in Colorado, a gunman armed with a MAC-11 assault pistol kidnaped a woman, killed her and her mother, raped another woman, and wounded several other people. And the stories go on and on. In my own State, a Navajo County deputy sheriff made a routine traffic stop. Before he was able to exit his automobile the passenger of the stopped vehicle got out with an Uzi-type weapon and sprayed the deputy's windshield with 24 rounds. Three of these rounds hit the deputy and he died 3 days later.

The stories go on. These are stories that police officers will tell you if you just ask them to come in and talk to you. There just is no end to it.

Let me give a couple of examples, if there is any doubt whatsoever.

Pima County, where I live, near Tucson, AZ, extends to the border. I was Pima County attorney for 4 years before I came to the Senate, and I personally know many of the Pima County law enforcement officers; I worked with them then. Many of them are still around. These officers are facing a growing arsenal of weaponry. They are literally scared to go out on the border because they are going to end up with this type of weapon being shot at them and they do not have the responding firepower. They do not have it yet.

Recently Clarence Dupnick, the sheriff of Pima County, reported that in a 6-week period 30 search warrants were served by his SWAT team and AK-47's were confiscated under each warrant. Each one.

This is out of 30 warrants that were issued by this sheriff alone. An AK-47 was in every one of those arrests.

Last October a Tucson police officer tried to stop a car for speeding and found himself in a chase. As he began to close in on the speeding car he saw the barrel of the semiautomatic rifle coming out of the car window. The officer reported that gunmen "blew out the back window, and he started shooting, maybe 50 rounds or so. You could see that muzzle flashing." The car hit a curb and crashed into a median. Both gunmen fled, one carrying an AK-47 and the other carrying an AR-15. As the officer would later describe the shootout, "It was luck

that I could be here today to talk about it."

Mr. President, our law enforcement officers should not have to rely on luck. They should not have to rely on going into their combat with that kind of weapon against them.

There are those who contend these types of firearms serve no legitimate use. Frankly, I am not convinced that they do serve a legitimate use. When one considers the awesome destructive power of these weapons, there increasing use by drug dealers, and the threat they pose to law enforcement officers and civilians alike, it becomes painfully clear the Congress must act to do something to curb this carnage that is happening to our law enforcement.

Proliferation of these assault weapons has had an incredible impact upon our law enforcement. The cop on the beat is heavily outgunned.

Dewey Stokes, who is the president of the Fraternal Order of Police, the largest police organization in the United States, says increasingly this battle finds the cop on the beat heavily outgunned. The superior firepower now possessed by the criminal elements in many of this Nation's cities has already taken an enormous toll of our police officers.

These are the words from the men and the women who have to face this situation every day. They are the ones who have to fight the drug war for America.

The assault weapon rage has indeed caused our law enforcement officials to make some adjustments. The FBI is a perfect example of how the proliferation of assault weapons has changed the terms of the war that they have to conduct.

FBI Director William Sessions commented at a recent hearing that the assault weapon problem has caused the FBI to initiate a search for a new standard issue firearm, a firearm which, as he puts it, would restore the advantage in firepower and reliability to the agent over the armed criminal.

Mr. President, I have always been and will continue to be a strong supporter of the constitutional right to bear arms. My voting record is very clear in this body and on the Judiciary Committee. The NRA has been kind enough to single me out as the legislator of the month for my participation in preserving what they consider to be the second amendment rights of the Constitution, and I am pleased to have that award, or that compliment.

Because of my commitment to the second amendment and my opposition to legislation which infringes on this constitutional right, I have had the full support of the NRA over the 13 or 14 years that I have been in the Senate.

When I ran for reelection in 1988, I was strongly endorsed by the NRA and other organizations like that. I say now as I have said all along: The bill that we have here, this particular bill before us, and the motion to strike it—that motion is to strike not an antigun bill but an antidrug bill. I am sorry to say the NRA has refused to face reality, the reality of what the assault weapon is doing to the officers on the street.

When I first started looking at this issue I asked the NRA to help out, see if they would help draft some legislation that would deal with this problem and assist the law enforcement community and grant them some kind of protection based on getting rid of some of these weapons. I unfortunately could not get them to move on it because of their beliefs, and they have every right to those.

It is time for us to do something. This is an antidrug bill that, to me, is overdue. I approach this very cautiously because I do not want a bureaucracy or the Federal Government telling me what weapon I can own or use. This does not do that.

By using the tactic the NRA has used, it is succeeding in alienating, in my judgment, its closest friend in the fight the NRA likes to place itself in—that is against the criminal element. The NRA has refused to participate in a constructive manner except to say let us have more enforcement, and we will get into that later.

The NRA support is clearly not a litmus test, in my judgment. I think every Member here has to stand on his own and not be worried about what the repercussions are. If my colleagues are looking for the political side of it, the polls strongly support this particular part of the bill, and the entire bill for that matter.

I am not the only politician in Arizona, I might say—as conservative as my State is—who is speaking out on the assault weapon issue. Former Senator Barry Goldwater, who has been a member of the NRA for years and who is seldom, if ever, accused of harboring a liberal thought, was quoted in the Washington Post last year regarding semiautomatic weapons. Let me read to my colleagues what our former colleague said:

> I'm completely opposed to selling automatic rifles. I don't see any reason why they ever made semiautomatics. I've been a member of the NRA; I collect, make and shoot guns. I've never used an automatic or semiautomatic for hunting. There's no need to. They have no place in anybody's arsenal. If any SOB can't get a deer with one shot, then he ought to quit shooting.

I take a little bit more conservative approach than my former colleague, Senator Goldwater, and I suggest there are legitimate reasons to own semiautomatic firearms. I also believe it is acceptable to hunt deer, even if it takes two shots.

The point I am making is that the assault weapon proliferation and the change it has caused in the streets of America should make us all rethink our positions on the semiautomatic assault weapon issue. It is not only law enforcement, however, who is concerned about the destruction and death caused by assault weapons. This bill is also supported by the American Medical Association, the American Public Health Association, and many, many others.

Recently we have observed a disturbing trend. It was quoted at a hearing on this bill. A surgeon from a Chicago hospital testified, and she said:

> Recently we have a very disturbing trend. Victims are now coming in with multiple bullet wonds through many different parts of their bodies; in shock, barely alive; many times it is difficult to decide which organ system to address first.
>
> It is not atypical to have several such victims come in, especially on a Friday or Saturday night, and require immediate life-saving operations.

(Mr. DIXON assumed the chair.)

Mr. DECONCINI. Mr. President, I have been in contact with law enforcement groups across the country, as well as the Bureau of Alcohol, Tobacco, and Firearms. The statistics are frightening, Mr. President. According to the BATF, there has been a tremendous surge in requests to import semiautomatic assault weapons.

For example, in 1986, the BATF approved the import of 4,000 AK-47 assault rifles. By 1988, that figure had increased tenfold to 44,000. And in 1989, the BATF received requests to import over 113,000 AK-47 assault rifles.

The National Drug Policy Coordinator, William Bennett, cited these figures last year when he announced the administration decision to ban the importation of certain semiautomatic assault rifles. The NRA and others oppose this. They said, "You are going to destroy and take away our constitutional right."

Nobody has lost any constitutional right by the banning of those guns. I submit the administration has made a good start, but it has not gone far enough. Not only are imports of assault weapons that are not banned on the rise, but domestic manufacture is also increasing to make up the particular problem.

A TEC-9, one of the most popular assault guns in the country and traced to one out of every five crimes involving an assault weapon, is being produced at the rate of 3,000 per month. This is double the number being manufactured last year at the same time.

Not only has the actual number of these weapons increased at an alarming rate, but there has been a dramatic increase in their use in the commission of crime. According to the BATF, the number of assault weapons linked to crime has doubled over the last 3 years. It is also the general consensus of law enforcement officials that the

ever-increasing presence of assault weapons in the illicit drug trade and other types of crimes places the safety and every life in America in danger.

A 1989 study by the Washington Bureau of Atlantic Journal Constitution provided a case in point. The study tabulated trace request forms filed with the Bureau of Alcohol, Tobacco, and Firearms. According to the study, assault weapons constituted approximately one-half of 1 percent of the over 200 million privately owned firearms in the United States. However, these weapons were used in 1 of every 10 crimes resulting in firearm traces last year.

The bottom line is that an assault weapon is 20 times more likely to be used in the commission of a crime than a conventional firearm—20 times more. In response to the concerns voiced by the law enforcement groups and BATF, I introduced the Antidrug Assault Weapon Limitation Act, known as S. 747.

This bill is concise. It is a direct attack on the spread of assault weapons and their use in the commission of violent and drug-related crimes. The bill is tightly focused on nine specific types of assault weapons that have emerged as the firearm of choice of violent criminals.

By focusing on these nine specific types, I have attempted to avoid general categories which might inadvertently include legitimate hunting and sporting firearms.

The bill is very straightforward. It will prohibit future imports of five imported types of firearms and make that the law, not subject to the President's change by Executive order or the Treasury, and the future manufacture of four domestic semiautomatic weapons. It will not prohibit legal ownership of the listed firearms, provided they are legally owned at the time the bill is enacted.

In addition to barring future imports or manufacture of the specified firearm, the bill imposes tough penalties for the use of an assault weapon in the commission of a violent or drug-trafficking crime. Specifically, any person using or carrying an assault weapon in the commission of one of these crimes will face imprisonment of up to 10 years in addition to the punishment provided for the commission of the actual crime.

The bill also imposes new penalties for the theft of firearms and the smuggling of firearms while engaged in drug trafficking or violent crime. The bill also provides a mandatory revocation of a supervised release if the defendant is found in possession of a firearm and the court has provided as a condition of release that the defendant refrain from possessing any firearm.

This bill also contains two additional provisions that should have the support of all of us who are not only concerned about our second amendment rights, but also about doing something to stop the maiming and killing of our citizens—our children and our police officers—with these drug guns.

It calls for an 18-month study by the Attorney General to determine the effect of the provisions of the act on violent and drug trafficking crimes. The bill also has a sunset provision that ends the prohibition on these assault weapons after 3 years. This should provide us with sufficient time to see whether or not this works.

I do not stand here, Mr. President, and make representations that this is the answer to the war on drugs. What I say is let us try something that is not going to infringe on anybody's constitutional rights if they already own the gun. It is only going to go after those drug dealers that would have one of these guns and not properly get the form.

I do not believe this is a panacea, and I do not support more restrictive versions because I think it is worth trying this to see how it works.

We have to attack the drug war, in my judgment, on all fronts. But I will not stand up here and claim that this bill is the complete solution, because it very well may not be and probably is not. But in 18 months, we are going to have a comprehensive study of all crimes in the country in which firearms were involved, and we will see whether the banning of this saved some lives and actually had some good benefits to our law enforcement.

In our war against drugs, we have asked for all groups and sectors of America to join us and to make some sacrifice. I am requesting the gun manufacturers to join us. I hope they will take this bill, if it is passed with this provision in it, as a message that we can no longer tolerate our law enforcement officers being out-gunned by drug traffickers with assault weapons manufactured right here in the United States.

I believe this bill represents a reasonable approach to the issue that we are talking about here; and that is, semiautomatic assault weapons and the constitutional right to bear arms, and to do something about the war on drugs.

The second amendment cannot be said to sanction destructive violence by drug dealers and violent criminals. Daryl Gates, chief of police of Los Angeles, probably described how assault weapons should be treated under our second amendment about as well as anybody I know when he said the following:

> A reasonable right to bear arms does not mandate that weapons designed and built for the express purpose of killing human beings on battlefields be made available to the general public.

That is the chief of police of the city of Los Angeles, a conservative law enforcement official.

I am willing to try this measure. I think it is worth the effort, and I hope my colleagues will look at it from the standpoint of an attack on the war on drugs.

In order to stem the flow of drugs and arms into the country, a Federal law, in my judgment, is required. State laws banning assault weapons are simply ineffective if the weapons can be easily purchased in a neighboring State. I strongly urge everyone to look at this from a different perspective and not from the perspective of the fear and intimidation of what the voters are going to say, because the voters are going to support this.

Mr. President, I believe strongly in our second amendment right to bear arms, but I also believe that the right of our citizens to life is the most precious right we have. So I urge the defeat of the amendment offered by the Senator from Utah.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I think it needs to be pointed out to all of our colleagues that five out of the nine guns the distinguished Senator from Arizona is talking about are already banned by the President of the United States. Manufactured offshore, he has banned them from this country. There is no reason to have them in this bill. The other four are domestically manufactured.

Frankly, the letters and the comments that I get from my fellow Utahans, and I think from people all over this country, basically consist of this: we do not want the Federal Government telling us honest, law-abiding people that we cannot own some of these guns as collectors. That is the way a lot of them own them. A lot of them buy them because they collect guns, they love guns, and they want to have them in their arsenals or in their museums or in their gun cabinets or whatever.

Second, a lot of them like to plink with them and like to go out and target shoot with them. These guns are basically good guns. They can shoot with them. And they have lots of fun doing it, and they do it in a law-abiding decent, honorable way.

Third, these guns are not generally used for hunting, so that is a red herring. Frankly, I do not know of any of these pistol-type guns that are used for hunting. They are used for collections; they are used for plinking; they are used for target practice; they are used for sporting purposes and gunnery range purposes.

Fourth, why take these rights of ownership away from our honest, law-abiding citizens? That is not going to

stop the criminals from getting them. If it did, maybe that would be a good argument, but it does not. I might add that the criminals are going to use those guns whether or not they are sold in this country. They are going to be illegally used. That is always the case.

The way to solve this problem is through tougher criminal enforcement procedures. That is the way to solve this problem.

My distinguished colleague from Arizona referred to a Utah poll regarding this bill. I am not sure how the questions in that poll were phrased, but poll questions are poll questions. You can make them come out almost any way you want. But I do know that my constituent mail from Utah is overwhelmingly against what he wants to do and opposed to this bill.

Furthermore, during a recent series of meetings that I conducted in my home State, I found that most of my constituents are against this. Now, true, there are always some who are for this type of legislation. But our experience in the past is, if you pass legislation like this, it is not going to hurt the criminals; it is not going to stop criminal use of weapons; it is going to hurt decent, honest, law-abiding sports people. Regardless of what the distinguished Senator from Arizona says as to the narrow scope of this particular part of this bill, it is still an infringement on the second amendment rights of American citizens to keep and bear arms.

The only citizens who are going to be affected by the type of language which the distinguished Senator from Arizona is advocating are those who comply with the law. They are the only ones who are going to be affected, because criminals will not be prohibited from getting the listed firearms, and they for sure are not going to comply with the requirements of Form 4473 in this bill. They are not going to that. Only law-abiding American citizens do that, and, if they do do it and they make a mistake, they will find themselves hauled into Federal court with all of onus of that, with the need to attorneys, and all of the might of the honorable Federal Government arrayed against them, and they will find themselves being fined for $1,000 and maybe even sentenced to 6 months in jail. That is the way they have done it in the past.

That is one reason the distinguished Senator from Idaho and myself and others worked so hard to get the Firearm Owners Protection Act, commonly known as the McClure-Volkmer bill, named after my friend from Idaho, because we were sick and tired of this kind of legislation that abuses the decent, honorable sports people of this country. That is what happens.

The way to reduce violent crime in the streets is to put the criminals in jail. We need to enforce firearm statutes that are already in place, and we are not doing that. So why abuse, through the type of legislation, decent, honorable, law-abiding citizens when five of these are already banned by the President and the other four are domestically manufactured? I have to say many people love to have these because they collect them. It is a legitimate thing for them to do. Many of them love to have them because they love to shoot them in target practice. I do not know if anybody hunts with them; maybe there are some. But that is their right. We can make all the ridiculing remarks we want. We are talking about sports people in this country. They are not criminals. This type of legislation implies that some of them might be.

We have to fight that, and I hope our colleagues on both sides will listen to this important debate. It is a question not to criminal activity on the part of honest people; it is a question of whether or not we are going to continue to pour it on the honest people while ignoring the criminals who are never going to comply with this legislation anyway.

I yield 15 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 15 minutes.

Mr. GRASSLEY. Mr. President, I supported the motion to table the amendment by the Senator from Ohio [Mr. METZENBAUM].

I also support the motion to strike the gun control provisions in the crime bill, that have been authored by the Senator from Arizona [Mr. DECONCINI].

I opposed similar provisions in the Judiciary Committee, of which I am a member.

Aristotle once observed that law is reason free from passion.

The senseless deaths of innocent individuals make it easy for us to be inclined to create laws as a reaction to our anger and grief—to legislate by passion instead of reason.

However, we can only serve the best interests of all Americans if we set aside our anger and employ our wisdom.

There are 60 to 65 million firearms owners in the United States. There are around 200 million firearms in existence.

Of the approximately 200 million firearms, less than two-tenths of 1 percent are misused.

Or, as a constituent of mine from Spencer, IA, noted: 99.8 percent of the firearms in our country today are used properly.

I believe that the second amendment is the "forgotten civil right," and is every bit as important as any right guaranteed by any other amendment in the bill of rights.

Many Americans, including many Iowans, desire firearms for legitimate uses such as personal protection or for sporting purposes.

I find it very curious that some—who advocate an ever expanding and broad interpretation of the various individual rights enumerated in our constitution—are often quite willing—indeed, some can't wait—to constrict, narrow, or limit the right to keep and bear arms enumerated in the second amendment.

I believe that our deliberations should reflect efforts to protect that right—as we have sworn to protect any other portion of the constitution—rather than infringe upon it.

On March 29, 1989, Paul Craig Roberts, a nationally syndicated columnist, observed that "our leaders invariably blame crime on inanimate objects, such as guns, or law abiding citizens, otherwise known as 'society'. The criminal himself is seen as a victim of society."

Legislation that bans guns deflects the responsibility of both the criminal and the legal system, to those who sell or import guns. These individuals become the scapegoat.

Firearms should be controlled only if there is sufficient evidence that firearms currently held legally by individual, law-abiding citizens pose a serious threat to the general safety and welfare of the public.

An article in the San Diego Union earlier this year found that so-called assault weapons comprise less than 1 percent of the 4,800 firearms that the San Diego Police Department confiscated last year.

Further, in the District of Columbia—which has been labeled the "murder capital" and the "drug war zone" of America—police rarely encounter an assault weapon, according to a Washington Post article of March 6, 1989.

I maintain that it is not enough to dislike the personal ownership of classes of firearms—nor is it enough to believe that people should not own firearms. Troublesome social issues are not solved by compounding the problem with ill-conceived legislation.

First, there is a lack of hard evidence in the form of statistics that proves exactly where firearms fall within the spectrum of weapons used in crimes of violence.

Nearly all of the pronouncements regarding the danger posed by semiautomatic firearms is based upon anecdotal information.

The Uniform Crime Report for 1987 indicates that rifles—including so-called assault rifles—are used in only 4 percent of homicides committed in the United States.

There is no evidence to support the well-worn phrase that "there is a full-scale war in our city street that is

being fueled by these assault weapons".

Second, attempts to attach a definition to assault weapons are flawed.

The measures we are presently considering would encompass at a minimum 3.4 to 4 million firearms, plus millions more if the language: "identical or nearly identical to an assault weapon," is vigorously enforced.

Without an adequate means of identifying what attributes constitute an assault weapon, the supporters of banning these firearms are reduced to relying on a list of banned firearms, based on a manufacturer's name or by terminology that refers to a firearm's model type.

This is a sure prescription for an administrative nightmare.

And, since there are at least 3.5 to 4 million semiautomatic assault rifles—that look like their military counterparts in private hands—that would fall under the explicit terms of the proposed legislation, the documentation and tracking of such weapons would be a major administrative undertaking, to say the least.

Third, the perception of fairness in the law is a keystone for public support of the social contract between the Government and the governed.

The legitimate owners of firearms in our country are increasingly concerned with the debate over firearms that seems to be going on without the facts.

Many of these law-abiding citizens believe that a constitutionally guaranteed right—the second amendment's right to keep and bear arms—is being treated as a less important right than others guaranteed in the Constitution.

These folks agree that there is a crisis in the country regarding firearms, but the crisis involves the abuse of firearms by criminals—not by law-abiding citizens.

I share these very real concerns of these law-abiding American citizens.

I believe that one common thread that unites many of the crimes committed in America today is: Not the type of weapon used, but the person who commits the crime.

The source of interpersonal violence in our society is not the weapons used, but the lack of respect for our fellow human beings, and an absence of concern about the consequences of our actions.

In fact, statistics show that the recidivism rate of those incarcerated in many States is between 60 to 80 percent.

Such evidence suggests to me that gun control does not translate into crime control.

A gentleman from Des Moines wrote me to express his view—one that I agree with—that the blame for crimes should be placed on the individual pulling the trigger, and not on the particular object he or she chooses to use during the commission of the crime.

I cannot agree that gun control legislation protects the residents of our inner cities or rural America.

Therefore, efforts that concentrate on punishing the actions of individuals—rather than outlawing the possession of individual firearms—would seem to me to be more effective and appropriate.

We need to put our criminals behind bars and keep them there. We cannot allow individuals who commit crimes that involve the use of a firearm to negotiate their sentences with prosecutors.

In the meantime—regarding the measures before us—many have tried, but no one has been able to find a mechanical difference that distinguihses a so-called semiautomatic assault weapon, from a semiautomatic hunting rifle. No one has even been able to give a practical definition to the term "assault weapon."

Yet, some are willing to establish a precedent that will group all of these firearms together and classify them as illegal assault weapons.

By attempting to address a problem with the wrong solution, we may be creating another situation that is even more deadly.

A high school teacher from Cresco, IA, called me to express his concerns about the proposed legislation that would ban some semiautomatic firearms. He contends that many of his high school students enjoy hunting. He is afraid that if their firearms are outlawed, out of boredom, they could turn to drugs.

Now certainly, boredom from a lack of something to do is absolutely no excuse to turn to using drugs, or committing any kind of crime for that matter. I am absolutely adamant in condemning such behavior.

However, I do not consider a high school teacher to be an irresponsible member of the community.

I think he is only trying to relay his realistic assessment of the potential results of such a gun-ban law.

I believe that his opinion should be given great consideration. I believe that we should be very cautious about the potential consequences of our actions regarding this issue.

In conclusion, freedom from fear is one of the traditional four freedoms.

The President has called for a partnership among the Federal Government and the cities and States to take back the streets by taking criminals off the streets.

The law-abiding citizens of America must not only be safe, they must feel safe.

The right to keep and own firearms is no license to harm others; therefore, the individual must be held accountable for any harm caused to others, with no excuses—not the instrument used to cause harm.

Once again, I urge my colleagues to support the real, anticrime provisions contained in the Thurmond substitute and to oppose the anticrime firearms provisions of S. 1970.

Mr. President, I yield the floor.

The PRESIDING OFFICER. I inform the managers on both sides that the distinguished manager on behalf of the committee has 61 minutes, 12 seconds, the distinguished manager on behalf of those advocating the motion to strike has 61 minutes and 8 seconds, 4 seconds difference. Who yields time?

Mr. McCLURE. Mr. President, I yield to the Senator 15 minutes.

The PRESIDING OFFICER. The Senator from Idaho yields 15 minutes to the Senator from Alabama.

The Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise in support of a motion to strike title IV of S. 1970. I believe that this provision, which prohibits law-abiding citizens from purchasing certain semiautomatic firearms and regulates the ownership of those firearms already owned by citizens, is a violation of the second amendment in the Bill of Rights.

First and foremost in my determination to support the sriking of title IV is my concern for those Americans residing in rural areas. In most cases, it is highly unlikely that these citizens have ready-access to police protection. In these situations, a firearm could be their only means of security. At least that is their perception and belief.

While the second amendment has been controversial in recent times, it was certainly clearer to the framers of the Constitution. I would ask my colleagues to read the December 1989 issue of the Yale Law Journal, specifically an article by Prof. Sanford Levinson entitled "The Embarrassing Second Amendment." While I do not agree with everything Professor Levinson writes, his thoughts that firearms are protected by the Constitution are strong. He may be right that military-style semiautomatic firearms may be the most clearly protected firearms of all.

I do not intend to review all of the literature regarding the private right of citizens to keep and bear arms. Yet the history is clear, and it clearly weighs against the type of action we are today contemplating.

In the Federalist, No. 46, James Madison predicted that encroachments by the National Government would provoke "plans of resistance" and an "appeal to a trial of force." He wrote that a standing army "would be opposed [by] a militia amounting to near half a million citizens with arms in their hands." Alluding to "the advantage of being armed, which the Americans possess over the people of

almost every other nation," Madison continued:

Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms.

By refusing to strike title IV, this body would send a message to citizens throughout the country, that we are afraid to trust them with certain semiautomatic firearms.

The framers were explicit in insisting that American citizens would be able to possess military-type small arms. Noah Webster, the influential federalist of dictionary fame, stated:

Before a standing army can rule, the people must be disarmed; as they are in almost every kingdom in Europe. The supreme power in America cannot enforce unjust laws by the sword; because the whole body of the people are armed, and constitute a force superior to any band of regular troops that can be, on any pretense, raised in the United States.

What became the second amendment was seen as embodying the proposal drafted by Samuel Adams:

That the said constitution be never construed to authorize congress * * * to prevent the people of the United States, who are peaceable citizens, from keeping their own arms * * *.

THE SUPREME COURT AND THE SECOND AMENDMENT

Some allege that the second amendment is a collective right, and that it has been so interpreted by the Supreme Court. Mr. President, this is an inaccurate statement.

The U.S. Supreme Court has analyzed the second amendment as guaranteeing an individual right to keep and bear arms— particularly arms that could be used for militia purposes. It has also held that all guarantees of the Bill of Rights are entitled to respect, and must be interpreted consistently with the intent of the framers. A ban on transfer or possession of semiautomatic firearms would be inconsistent with second amendment jurisprudence as developed by the Supreme Court.

In *United States* v. *Verdugo-Urquides* [108 L.Ed. 2d 222, 232-3, 10 S.Ct. 1056, 1060-61 (1990)], the U.S. Supreme Court makes clear that the second amendment protects the rights of all law-abiding persons. The Court stated:

"The people" seem to have been a term of art employed in select parts of the Constitution * * *. The Second Amendment protects "the right of the people to keep and bear arms," and the Ninth and Tenth Amendments provide that certain rights and powers are retained by and reserved to "the people." * * * While this textual exegesis is by no means conclusive, it suggests that "the people" protected by the Fourth Amendment, and by the First and Second Amendments, and to whom rights and powers are reserved in the Ninth and Tenth Amendments, refers to a class of persons who are part of a national community or who have otherwise developed sufficient connection with this country to be considered part of that community.

The other opinions in the case did not dispute the above. Concurring, Justice Stevens stated that "aliens who are lawfully present in the United States are among those 'people' who are entitled to the protection of the Bill of Rights. * * *" [108 L. Ed.2d at 241].

During Reconstruction, the Court stated that the rights of the people "peaceably to assemble for lawful purposes" and "of bearing arms for a lawful purpose" were not "granted" by the Constitution because they existed long before its adoption [*United States* v. *Cruikshank*, 92 U.S. 542, 551, 553 (1876)]. The amendments which recognize these rights serve to "restrict the powers of the national government * * *" [Id. at 553]. A later opinion again recognized "the right of the people to keep and bear arms" and repeated that the second amendment is a limitation "upon the power of Congress and the National government * * *" [*Presser* v. *Illinois*, 116 U.S. 252, 265 (1886). *Miller* v. *Texas*, 153 U.S. 535, 538 (1894) repeats that "the restriction of" the second and fourth amendments operate "upon the Federal power."].

At the turn of the century, the Court wrote of "the freedom of speech and of the press" and "the right of the people to keep and bear arms" that "the law is perfectly well settled that the first ten Amendments to the Constitution, commonly known as the Bill of Rights, were not intended to lay down any novel principles of government, but simply to embody certain guarantees and immunities which we inherited from our English ancestors * * *" [*Robertson* v. *Baldwin*, 165 U.S. 275, 281-2 (1897)].

In *United States* v. *Miller* [307 U.S. 174 (1939)], the Court avoided determining whether a short barrel shotgun had to be registered under the National Firearms Act in order to be consistent with the second amendment. The district court had declared the Act unconstitutional as in violation of the second amendment, and thus no evidence was in the record that such a shotgun was an ordinary military arm. The Supreme Court remanded the case for fact-finding based on the following:

In the *absence of any evidence* tending to show that possession or use of a "shotgun having a barrel of less than eighteen inches in length" at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is *not within judicial notice* that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense. [*Aymett* v. *State*, 2 Hump. 154, 158 (307 U.S. at 178)].

Whether a semiautomatic firearm today is ordinary military equipment or could contribute to the common defense should be within judicial notice, but is at a minimum a factual issue which is easily resolved in the affirmative by noncontrovertible evidence. The Miller court did not suggest that the possessor must be a member of the militia or National Guard, asking only whether the arm could have militia use. The private, individual character of the right protected by the second amendment appears to have been unquestioned.

Referring to the militia clause of the Constitution, the Supreme Court stated that "to assure the continuation and render possible the effectiveness of such forces the declaration and guarantee of the Second Amendment were made." [307 U.S. at 178]. The Court then surveyed colonial and State militia laws to demonstrate that "these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time." [307 U.S. at 179].

I will now read from the Yale Law Review Journal:

Returning, though, to the question of Congress' power to regulate the keeping and bearing of arms, one notes that there is, basically only one modern case that discusses the issue, *United States v. Miller*,[82] decided in 1939. Jack Miller was charged with moving a sawed-off shotgun in interstate commerce in violation of the National Firearms Act of 1934. Among other things, Miller and a compatriot had not registered the firearm, as required by the Act. The court below had dismissed the charge, accepting Miller's argument that the Act violated the Second Amendment.

The Supreme Court reversed unanimously, with the arch-conservative Justice McReynolds writing the opinion.[83] Interestingly enough, he emphasized that there was no evidence showing that a sawed-off shotgun "at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia." [84] And "[c]ertainly it is not within judicial notice that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense." [85] *Miller* might have had a tenable argument had he been able to show that he was keeping or bearing a weapon that clearly had a potential military use.[86]

Justice McReynolds went on to describe the purpose of the Second Amendment as "assur[ing] the continuation and render[ing] possible the effectiveness of [the Militia]." [87] He contrasted the Militia with troops of a standing army, which the Constitution indeed forbade the states to keep without the explicit consent of Congress. "The sentiment of the time strongly disfavored standing armies; the common view was that adequate defense of country

[82] 307 U.S. 174 (1939).

[83] Justice Douglas, however, did not participate in the case.

[84] *Miller*, 307 U.S. at 178.

[85] *Id.* at 178 (citation omitted).

[86] Lund notes that "commentators have since demonstrated that sawed-off or short-barreled shotguns are commonly used as military weapons." Lund, *supra* note. †, at 109.

[87] 307 U.S. at 178.

and laws could be secured through the Militia—civilians primarily, soldiers on occasion." [88] McReynolds noted further that "the debates in the Convention, the history and legislation of Colonies and States, and the writings of approved commentators [all] [s]how plainly enough that the Militia comprised all males physically capable of acting in concert for the common defense." [89]

It is difficult to read *Miller* as rendering the Second Amendment meaningless as a control on Congress. Ironically, *Miller* can be read to support some of the most extreme anti-gun control arguments, e.g., that the individual citizen has a right to keep and bear bazookas, rocket launchers, and other armaments that are clearly relevant to modern warfare, including, of course, assault weapons. Arguments about the constitutional legitimacy of a prohibition by Congress of private ownership of handguns or, what is much more likely, assault rifles, might turn on the usefulness of such guns in military settings.

Some common military firearms from the time Miller was decided to the present include the M-1 Garand and M-1 carbine semiautomatic rifles; and the M-2 carbine, M-14, and M-16 automatic rifles; 12 gauge semiautomatic and pump shotguns; and .45 caliber and 9 millimeter semiautomatic pistols.

While it has not discussed the second amendment in any detail since Miller, the Supreme Court has recently denied that some Bill of Rights freedoms "are in some way less 'fundamental' than" others. "Each establishes a norm of conduct which the Federal Government is bound to honor—to no greater or lesser extent than any other inscribed in the Constitution. Moreover, we know of no principled basis on which to create a hierarchy of constitutional values * * *" [*Valley Forge College* v. *Americans United,* 454 U.S. 464, 484 (1982)].

After quoting the first amendment, the Court has referred to "the equally unqualified command of the second amendment: 'the right of the people to keep and bear arms shall not be infringed.'" [*Konigsberg* v. *State Bar of California,* 366 U.S. 36, 49 n. 10 (1961)].

The framers intended to "safeguard fundamental values which would far outlast the specific abuses which gave it birth." [*United States* v. *Chadwick,* 433 U.S. 1, 9 (1977)]. Moreover, constitutional protections for physical objects—such as the press, arms, and houses—are not frozen into colonial technologies:

We may asume that the framers of the Constitution * * * did not have specifically in mind the selection and elimination of candidates for Congress by the direct primary any more than they contemplated the application of the commerce clause to interstate telephone, telegraph and wireless communication, which are concededly within it. But in determining whether a provision of the Constitution applies to a new subject matter, it is of little significance that it is one with which the framers were not familiar. For in setting up an enduring framework of government they undertook to carry out for the indefinite future and in all the vicissitudes of the changing affairs of men, those fundamental purposes which the instrument itself disclosed. [*Tashjian* v. *Republican Party of Connecticut,* 479 U.S. 208, 226 (1986)].

Mr. President, in reviewing all of this, I feel that the argument that title IV is unconstitutional has much merit.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Alabama yields the floor.

Who yields time?

The Senator from Arizona is recognized.

The senior Senator from Arizona.

Mr. DECONCINI. Mr. President, I yield 5 minutes or whatever the Senator from Nebraska would like.

The PRESIDING OFFICER. For the information of the managers, the Senator from Arizona has 40 minutes and 54 seconds; the Senator from Utah has 43 minutes and 41 seconds.

How many minutes are yielded to the distinguished Senator from Nebraska?

Mr. DECONCINI. I yield the Senator from Nebraska 5 minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. KERREY. Mr President, I do rise in support of the position of the Senator from Arizona in opposition to striking this law provision. Before I comment and describe why, let me say that in the short and happy time that I have been a Member of this body I have heard on repeated occasions that what we need in the United States of America are people who will disregard public opinion and simply stand and say what they believe is right; and why is there not more of that, particularly in the Senate, I have heard it said.

I think we have an example of that tonight. It is not a popular position in Arizona; it is not an easy position for a westerner to take. I must confess that part of the reason that I come to the floor in support is that I trust that the Senator from Arizona thought this through very carefully and that he believes in it very much. He fought in the committee for it. He thought it through very carefully and he runs a great deal of risk. The next time some journalist or some observer of this body laments the absence of leadership, people willing to stand upon principle, let it be said that the Senator from Arizona did that here today.

Second, let me also say that I have a clean slate here in this venture since the NRA opposed me in 1982 when I ran for Governor and again in 1988 saying incorrectly that I was antigun and against collecting guns. So I have a clean slate. I have a great deal of admiration for the educational side and almost none for the political side. So I can look at this issue without being terribly concerned that anything worse than what happened to me in 1982 or 1988 will happen if I choose to put myself before the voters again.

I being my analysis of this by saying it is not without precedent that we do in fact take away at times in a measured way the freedom of people. I believe we are doing that in this case. I have listened to people say that we are not, but in fact we are. There is no question. I have friends who own some of these weapons and they have purchased them for the purpose of target shooting.

They purchased them for perferctly legitimate reasons. And I understand that, in fact, I am, in supporting this legislation, restricting their freedom.

But I also believe in the doctrine of relative rights. My freedom is not absolute. The Chair will cut me off in 5 minutes, for example. I do not have the right to stand and say anything I want, or to do anything I want. I measure my freedom against the freedom of other people and their capacity to live with order and protection.

I have heard it said all we are simply doing is letting people who were in the service do the same things on the private side they did when they were in the service. I listened to Gary Anderson of the NRA, a man whom I respect a good deal, say there were a lot of people who fired the AR-16 in the service, and therefore on that principle we should permit them to fire it outside of the service. It is a persuasive argument.

However, when I was in the service, I enjoyed firing the light antitank weapon, and I was pretty good at it. And I enjoyed throwing a grenade or two when I had the opportunity to do that. But you do not give me the opportunity to do that on the weekends here in Washington, to go out and find a field where I can enjoy firing a law or two, as I did fire a law.

I am concerned that we provide an exemption for law enforcement. I must tell the Chair, I believe one of the reasons the second amendment is there is in fact the Founding Fathers were concerned about a government so much having the right to have arms. They wanted to make sure they preserved that right for themselves. And to preserve the right to organize militias, as well.

I have concluded in the end that the protections are sufficient that the Senator from Arizona has provided us, particularly the waiting period, particularly saying we have a 3-year sunset provision in this, we have an 18-month study to evaluate the efficacy of the new law, and particularly, since I believe the Senator from Arizona is

[88] *Id.* at 179.
[89] *Id.*

very concerned about the paperwork and the bureaucracies of Government and what it might require of people to conform to this law. I see a real and present danger, particularly with law enforcement people, as they try to control the scourge of drugs in this country.

With several of these weapons I have no difficulty at all saying they ought to be outlawed. The fundamental question I had at the beginning and that I still have is: Will this work? My opposition to previous gun control measures has been based upon my belief that they would not work. This one I believe has a chance, in fact, of improving public safety, of decreasing unnecessary killings in our cities and in our towns. And, as a consequence, I am willing to roll the dice and run a bit of a risk.

We will be denying some freedom to the American people. Make no mistake about that. But make no mistakes as well that there were sufficient precedents for us doing that before, for the purpose of protecting order and for the purpose of establishing a more safe place for all to live.

Finally, I say again, I believe the Senator from Arizona should not just be commended for fighting this battle in the face of great opposition, not just supported for the thoroughness with which he has examined this issue, but he should be pointed to with pride the next time the idle observer of this body concludes that there is no one around with the courage to stand up on principle and declare their beliefs.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Arizona.

Mr. DECONCINI. I will yield to the Senator from Kansas, if she will indicate how much time she would like.

Mrs. KASSEBAUM. I believe, Mr. President, 5 minutes.

Mr. DECONCINI. I yield 5 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 5 minutes.

Mrs. KASSEBAUM. Mr. President, I rise not as a legal scholar or a lawyer. I rise as a mother of sons who like to hunt. I also have never believed that banning guns would solve our crime problem. But I rise, I hope, with some—at least from my own perspective—common sense on this particular issue at this time.

I, like all of my colleagues, I am sure, have received a lot of mail, a lot of phone calls on this particular issue. Most of it, really, has been from people feeling very strongly that, as a matter of fact, they oppose any form of gun control.

On the other side are those who raise questions and are very angry about the brutality and the bloodshed that they believe is caused by the widespread and easy access to firearms. It is always difficult to find or even seek a middle ground in a debate as polarized as this one becomes.

However, I believe we must carefully weigh the legitimate interests that exist on both sides of this issue. On the one hand, every citizen has a right to safe streets and neighborhoods. On the other, hunters and sportsmen, and I would say all who wish to, have a right to own and use firearms for purposes that no one disputes are legal.

I support that right, even though I believe it is too often overstated as a right to bear almost any firearm that has ever been invented.

The facts, as I see them, are these. Today, drug rings, street gangs, and other criminal elements are able to obtain a host of paramilitary assault weapons with firepower far in excess of police officers on patrol, and often equal to police special weapons teams.

Weapons like the MAC-10 or the TEC-9 are relatively easy to conceal and can spray a large number of bullets with indiscriminate accuracy. The so-called Street Sweeper is a shotgun with a rotary magazine designed to fire off a dozen shotgun blasts very rapidly.

Mr. President, I frankly cannot imagine any legitimate hunting or sporting purpose for this kind of weapon. No hunter, certainly, in Kansas, in his right mind, would go after a deer or a pheasant with this firepower. No sportsman, concerned with highly accurate target shooting, would use such a weapon in a serious match.

I have concluded, Mr. President, that while banning assault weapons of this type would curtail the rights of some gun enthusiasts, the people who would benefit most from widespread, easy access to such weapons are criminal elements who least deserve our consideration.

I believe, therefore, that the limited ban in this bill on nine specific assault weapons is a necessary step to protect the lives of police officers and private citizens. And it seems to me to say a message about what we are about, as citizens of this country.

In many ways, this issue reminds me of the debate 2 years ago on the so-called plastic guns, which could pass through metal detectors without triggering an alarm. These weapons were a real and immediate threat to security at airports and other public facilities. In that case, the National Rifle Association initially opposed any limit on plastic guns, but later agreed to language that addressed the problem of protecting public safety.

I believe the NRA can and should join in a similar effort on this issue. Surely there is no rational reason to allow the continued sale of easily concealed, rapid-fire weapons of the type listed in the DeConcini bill. Surely, there is no public interest in the sale of large magazines that would allow someone to fire off 30 to 40 bullets at a time, which is not part of the language of the DeConcini measure that we are talking about right now, but it is something President Bush originally proposed to restrict.

For the life of me, I cannot comprehend why the National Rifle Association would object to this limited ban on specific assault weapons that could help curtail access by criminals without doing real harm to legitimate gun owners.

I agree with the NRA and others that gun bans cannot solve all of our crime problems. I strongly agree that we must have strict enforcement of existing laws, and I support the tougher penalties and fines called for in Senator THURMOND's proposal.

But I also do not see why these nine weapons should not be banned. Mr. President, I do not think this is the camel's nose under the tent. This is always an argument used when we get into a particular situation and we fear the next step will be something more.

Surely we can bring judgment to bear when we believe a case is well stated and it should be made, and we should stand up and be counted, when we can see at least that it might have some small merit.

I think anyone who has read this bill knows it does not allow anyone, elected or unelected, to ban all semiautomatic weapons or to confiscate every rifle and shotgun in America, as some have stated who have made calls into my office.

Mr. President, I do not think any gun ban should be done lightly, and it was for this reason that I could not support the broader ban proposed by Senator METZENBAUM, which I believe was too sweeping and vague.

But I am weary of propaganda, strong-arm tactics, and threats. It is time for common sense and reason to prevail on this issue. A limited ban on assault weapons is in the public interest. It is time for us to act responsibly and to ban these weapons and also to seek tough enforcement of our laws.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 5 minutes.

Mr. McCLURE. Mr. President, I thank the Senator from Utah for yielding. I take this time to respond to two or three of the statements made on the floor during the debate so far. Obviously, I am at a disadvantage compared to the Senator from Kansas. I cannot rise as a mother, and that, I hope, is both obvious and irrefutable.

But I can rise as a father and a grandfather, someone who is as concerned about the safety of my family, my community, and my streets as anyone else in this country. So let us not get into the question of whether we care about safety. Let us talk about whether this bill addresses safety, whether, indeed, it does anything at all meaningful with respect to the incidence of violent crime on the streets of our country.

I could not help but notice, as the Senator from Arizona was defending the provision in the bill, that he not once made the distinction between legally owned and illegally possessed firearms. Not once in the entire debate did he recongize the fact that much of the crime, if not most of the crime, committed by drug gangs are by guns that are illegally possessed in the first place or illegally acquired or that are, by themselves, illegal firearms.

I notice that he left on the stand, as he concluded his debate, a picture of an Intratec TEC-9. I believe that is one in his oral argument he referred to as having a threaded barrel so that a silencer could be put on. A silencer is prohibited by current law. It is illegal to have one under current law. So there are those who will pretend by passing a second law, maybe making it doubly illegal, it will be doubly impossible for anyone to use it. How silly can we get with respect to that particular kind of argument? If it is illegal under a given law, then it is a law enforcement question and not a question of, once again, banning it under a separate list for a different reason.

The Senator from Arizona made reference to a Colorado case. He either did not know or conveniently did not say that in that Colorado case to which he had reference, the gun was stolen from a person who possessed it legally and did not use it illegally, and the banning of the purchase of the firearm would in no way have changed the commission of that crime. It was an illegal crime by a mentally deranged person, who stole the gun and used it in that crime rampage. How familiar is that story as we look at the various incidents of crime around this country to which people point with a tremendous amount of emotion, if not reason.

Much has been made in the debate against the Hatch amendment today, which I support, and I think I should state very clearly I do support it. I think the provision in the bill is unwise, unwarranted, and is a further encroachment. It is a camel's nose under the tent, in my view.

Why do I view it that way? Because I watched, and we passed the 1968 Gun Control Act, and, in spite of the very obvious excesses of that bill, it took us nearly 20 years to correct some of the most obvious abuses under that bill. What was the argument against our attempts to correct the abuses? The bill had failed because it did not go far enough.

So we just finished the debate. How long should the list be? Should it be this long or should it be this long? I suspect there are those who voted against the Metzenbaum amendment so they could vote against the Hatch amendment so they could say a list this long is all right, but a list this long is a violation of the constitutional rights, and that way they have it both ways when they go back home. That is not an unfamiliar tactic around here either.

But the fact of the matter is the limitation stated in the DeConcini provision in the bill has almost nothing to do with making guns unavailable to criminals. All of the statistics that I have seen over the years will indicate that most of the firearms used in violent crime are illegally obtained and/or illegally possessed.

There has been quite a lot suggested here today that if, indeed, you ban these from importation or ban them from purchasing in this country, then criminals will not have them. Let me ask my colleagues this: If, indeed, criminals can import tons of illegal narcotics into this country, how are they going to be inhibited from bringing a few more pounds of illegal guns into this country?

Criminals involved in the drug trade will continue to have these firearms. They are doing an illegal activity already. What do they care it may be an illegal activity to have a gun? It is illegal to be selling the drugs. So you only compound their law violations, but you do not inhibit their conduct simply by passing another law that has more effect upon law-abiding citizens than it does upon those criminals.

Much has been said about the police are outgunned on the streets. Let me suggest, Mr. President, that if that were true, the police would have these firearms. The fact of the matter is the police do not judge these firearms to be the most effective to be used by the law enforcement agencies. It has been said several times how many of these guns have been seized, confiscated from drug dealers. As I recall, under the law, a confiscated firearm can be made available to law enforcement officials.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLURE. Will the Senator yield me 3 additional minutes?

Mr. HATCH. I am delighted to yield 3 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. McCLURE. Mr. President, if, indeed, the police believe these to be superior firearms and are readily available to them at no cost through the confiscated weapons that are seized from the drug dealers, then the police would have them and would be using them. The very fact the police do not carry them normally, do not use them normally, tells us the problem is something other than the fact that these firearms are the source of the problem. It is not true. There are other reasons why police are gunned down in the street, and there is not anyone who is more concerned about that than is the Senator from Idaho.

But let us focus on what produces the crime and how we eliminate that crime. As the Senator from Kansas indicated a moment ago, let us focus on these provisions that are contained in the Thurmond substitute. Let us focus on law enforcement that gets these would-be criminals off the street.

I am disturbed when I read of law enforcement officials who say, "I cannot enforce that law against juveniles carrying these firearms because I simply do not have enough resources," and it is already against the law for them to be carrying a concealed weapon.

I might just say parenthetically to the Senator from Kansas, we are not here talking about easily concealable weapons. That is another issue, a separate, distinct other issue. This has nothing to do with easily concealable. I have not seen anybody limping down the street with an AK-47 stuffed in his pants leg. That just is not a part of the problem we are dealing with.

I do believe there are problems with respect to heavily armed criminals involved in illicit trade, and the police need our help, they desperately need our help, but they do not need the kind of action that is taken here in a congressional decision as to whether or not we ought to limit the rights of an individual in our society trying to exercise in a lawful manner rights which are guaranteed in the Constitution of the United States. This is unwise legislation. In my judgment, it is unconstitutional legislation, and the worst part of it is it has almost no relevance to dealing with the problem that is identified with the sponsors of this provision.

I hope we will adopt the Hatch amendment and get on with the question that is really addressing this body, and that is, how do we deal with violent crime?

Mr. President, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DeCONCINI. Mr. President, I yield to the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I just want a minute to respond to the Senator from Idaho because we certainly agree on the law enforcement provision. When he mentioned the language of the Metzenbaum amend-

ment and why perhaps some voted against it as a screen then to vote for the DeConcini language, I point out when the Senator used the example of the legislation in 1968, which was before my time here, I think the very reasons the Senator mentioned that there were problems with that legislation was that it was not drafted in a way that was precise.

That is why we get frequently into a great deal of difficulty, and it is one of the reasons, as I mentioned, I voted against the language of Senator METZENBAUM, because it was vague.

There were two aspects that were catch-all language, where the amendment states, "all other models by the same manufacturer with the same design", for instance, is not precise. Again, "Any other firearm with an action design identical or nearly identical to an assault weapon specified in this paragraph," and so forth. I think, personally, that is why we do have to be careful. The DeConcini language is much more specific and narrowly drawn. I want to make that point, Mr. President, because I think it is a major distinction among others, between the two approaches.

Mr. McCLURE. Mr. President, will the Senator yield to the Senator from Idaho 1 additional minute.

The PRESIDING OFFICER. The Senator from Utah yields to the Senator from Idaho.

Mr. McCLURE. I thank the Chair. I say to the Senator from Kansas, the 1968 gun control law was not flawed because it was imprecise. It was flawed because it aimed at the wrong target. It attempted to do, in 1968, what this provision attempts to do now. It aimed at firearms, not at criminal misbehavior. That is what was wrong with the 1968 law, and that is why 2 years ago we got some substantial changes made in the other direction.

Mrs. KASSEBAUM. Mr. President, I would just like to say now we are attempting to deal with both, law enforcement and some types of firearms.

Mr. DECONCINI. Mr. President, I want to point out a couple of things. The distinguished Senator from Idaho said that criminals only obtain their guns illegally or something close to that, or most of them.

That just is not the case. Oakland, CA, law enforcement authorities did a study of this and only 12 percent of the 383 assault weapons confiscated between 1986 and 1988 in that jurisdiction were illegally obtained. The remaining 88 percent were purchased legally over the counter. So we are talking about you are not being able to buy these guns over the counter, so they are going to have to steal them if they are going to use these guns, and they have other things to do. Other things include selling drugs.

Then the Senator points out that, well, more enforcement. How often have we heard that argument—well, we just get tough and so more enforcement.

Look at what has happened on the enforcement side. It has not been the administration that has asked for more for enforcement. It has been the Congress that has added more for enforcement. In the Bureau of Alcohol, Tobacco and Firearms, the 1987 request of the administration was for $178.5 million. We appropriated $198.5 million. The Congress said let us do more for enforcement. The administration opposes this bill.

In 1991, the administration is proposing a reduction of 185 staff for the BATF. This cut is being made to offset increased costs of pay.

Mr. President, it just does not wash that this bill is a copout, or whatever you want to call it, to the Metzenbaum bill. The Metzenbaum bill, as the Senator from Kansas pointed out, includes any firearm with an action, that means a firing action, designed identical or nearly identical to an assault weapon specified in this paragraph, which has been redesigned from, renamed, and renumbered or patterned after one of such specific assaults.

So anything identical can be and is included so you are talking about a very widespread bill.

I have the greatest respect for the Senator from Ohio. He has stood on this floor and made splendid arguments. He just has not been able to convince me. That is one of the reasons. I do not want some unelected official to arbitrarily say yes, it is identical or nearly identical so it goes into the category. So there is a great deal of difference between these two bills. I think it ought to be noted.

The Senator from Idaho also says that the police would use these weapons if they thought they were superior. Well, the police are moving to use these weapons because not only are they superior, but it is the only way they can combat these drug dealers.

The FBI is now issuing Uzi's or something similar to that because they have to have the firepower. The border patrol in my State along the southwest border, if they can get the money for them, are going to have, and some of them do have, M-16's.

Why? You ask them. Because they are getting shot at by these things and they are not covering themselves. They know what is superior. They are trying to catch up with the God-awful weapons these drug dealers are using.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GRAMM. Mr. President, I ask the Senator from Utah to yield me 5 minutes.

Mr. HATCH. I will be happy to yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Mr. President, there are several points I wish to make. I would not speak except we are under a time limit and so we are all going to be here anyway. I think the distinguished Senator from Idaho has spoken very clearly on this subject. If people are listening to the debate and they enter it with two things; No. 1, at least any kind of practical or logical approach to the problem; and, No. 2, any kind of institutional knowledge about the fact that there are probably at least 100 million firearms, as a conservative estimate, owned legally in the United States—we do not know how many are owned illegally—the logic of the Senator is irrefutable. Since we are here anyway, and silence is consent, I want to say a little bit about this subject. First of all, I think it is interesting that as terrible as the assault rifles are, this bill does not propose that we make people turn them in. If they are all this bad, if they are all this dangerous, why are we not going to try to take them up?

Second, Mr. President, does it make sense that we let somebody go out and, with a background check, buy an automatic weapon, but we are going to ban the purchase of semiautomatic weapons?

My point is that the bill is structured not to meet a problem, not to deal with a legitimate threat. If it were dealing with a legitimate threat of automatic and semiautomatic weapons, it would propose taking up those weapons, not just preventing their sales; it would ban the resale and confiscate automatic weapons. In fact, this amendment is set out to deal with a political perception. That is what I would like to focus on.

Mr. President, I never cease to be amazed at the arrogance of government. I never, ever cease to be amazed at the arrogance with which government claims capacity to accomplish things which any reasonable, knowledgeable person knows government cannot do.

Does anybody really believe that the passage of this amendment, or our failure to strike this bill language is going to prevent people that are going to go out and kill somebody, the ability to obtain a weapon to do it? With 100 million firearms in the country, with millions of these kinds of weapons owned legally now, does anybody really believe that anyone who is going to go out and kill somebody in a gangland drug murder is going to be deterred by the fact that the weapon he possesses is possessed illegally?

In fact, as I talk to law enforcement officials around my State, when they raid crack houses or engage in major drug busts, they almost always find

class 3 weapons, automatic weapons, and yet I am not aware that any of those automatic weapons are licensed. And the law says you have to have an FBI background check, and you have to have it licensed, and you have to pay $200 to do it.

So that is a law that is on the books. If it makes you feel good, you can go find a dusty law book somewhere, look at it and feel safe. But the plain truth is the people that want these weapons have them. So what we are really dealing with here is a symptom. The symptom is the fact that people are using firearms to violate the law, and to kill people.

There are really two fundamental ways of approaching that, it seems to me. One is to say let us take the guns away. It is very revealing to me that that is not what is being proposed here. What is being proposed here is sort of a political sham. We will not take the guns away, we will just say you cannot buy legally any new ones.

The other alternative, the alternative that I think has some chance of working, the one I would like to see tried, and the one that at some point during the consideration of this bill I intend to offer—there will be many solutions, and there is nothing magic about mine. But the alternative is to penalize very severely the people that abuse firearms.

That is an amendment that I will offer later in the debate—and I hope we adopt the motion to strike. If we do not, I will offer my amendment as a substitute to this language. If we are successful here I will offer my amendment free standing to the bill.

My amendment is very simple. If you are carrying any firearm, period, single shot or whatever—if you are carrying a firearm while you are committing a drug felony or a violent crime, if you are apprehended, and you are convicted of that firearm violation, no matter what sentence you get for the drug felony, or the violent crime, you are going to do 10 years in prison without parole for possessing the firearm. Second, if you discharge the firearm with intent to do bodily harm, you are going to get 20 years in prison without parole. And, if you kill somebody, you are going to be put to death.

Mr. President, I submit that is going to do a lot more to, one, deter people from carrying firearms while they are out committing drug felonies, or violent crimes. No. 2, it will deter them from using the firearm once they have made the mistake of carrying it. No. 3, if they kill somebody, they are going to be put to death. So we are going to have an effective ultimate deterrent.

If our objective is to respond politically to a concern the public has, then we can do it by the provision in this bill. But if our objective is to deal with the problem, to protect our fellow citizens, to protect our bleeding Nation, the way to do that is by adopting this motion to strike and then impose stiff minimum mandatory sentences, and the death penalty.

I thank the Chair.

Mr. DODD. Mr. President, I rise in opposition to the Hatch amendment. As I do so, I am well aware that this is not the first time this body has debated gun control—nor will it be the last. During the 1960's, the Senate debated legislation to restrict mail-order purchases of firearms, and supporters and opponents of gun control trotted out the very same arguments in use at the present. I can only hope that the current debate will end as the one in the sixties did—with enactment of needed gun control legislation.

My father, the late Senator Thomas Dodd, was the sponsor of that legislation during the 1960's. His support for gun control resulted from his own personal experience in law enforcement. He was a special agent for the FBI in the 1930's, and he spent his wedding night staking out one of John Dillinger's suspected hideouts. Between 1938 and 1945, he served as an assistant to five successive Attorneys General of the United States. In these capacities, my father saw firsthand the threat posed to law-abiding citizens by drug addicts, criminals, and crackpots who obtain firearms.

That is why in 1961, as chairman of the Senate Subcommittee on Juvenile Delinquency, he ordered a study of interstate firearms sales. The findings were disturbing. No existing law prohibited mail-order sales of firearms to drug addicts, children, crackpots, or criminals. The study also found that a wide variety of foreign military surplus weapons, from handguns to bazookas and antitank guns, were readily available to all who sought them. As a result of this study, my father introduced legislation in 1963 to stop mail-order sales of handguns.

Mr. President, opponents of my father's measure fought against it for 5 long years. they argued that it was unconstitutional. They asserted that it would be ineffective at keeping firearms out of the hands of criminals and other people unfit to have them. They claimed that it amounted to nothing other than a burden on law abiding citizens. In the interim, President Kennedy was shot by an assassin armed with a fraudulently obtained mail-order rifle. It was only in 1968, after the twin tragedies of the murders of Martin Luther King, Jr. and Senator Robert Kennedy that my father and fellow proponents of gun control were able to overcome resistance and put an end to mail-order sales of firearms.

I hope it will not be 5 years before we act to end further sale of semiautomatic assault weapons. I believe that Americans have witnessed evidence enough of the awesome and awful capabilities of these weapons when they fall into the wrong hands. We have seen Patrick Purdy's senseless rampage with a semiautomatic AK-47 in a Stockton schoolyard, and Joseph Wesbecker's deranged shootings at a Louisville newspaper plant. We have seen police officers killed by outlaws armed with semiautomatic assault weapons, while the officers themselves are armed only with their service revolvers. Moreover, it is clear that semiautomatic assault weapons are more apt to be used in criminal activities than are other types of firearms. While semi-automatic assault weapons account for but one-half of 1 percent of all privately owned firearms in this country, they accounted for 10 percent of all firearms traces requested of the Bureau of Alcohol, Tobacco and Firearms by law enforcement officials between January 1988 and April 1989.

Mr. President, opponents of this measure would have us believe that the guns covered by this bill are identical in form and function to conventional firearms. Indeed, the firearms covered by this measure are similar to conventional guns in that they are semiautomatic. One pull of the trigger, one shot. But in ancestry, design, and most importantly, magazine capacity, these firearms are most closely related to military weapons. The Bureau of Alcohol, Tobacco and Firearms, admitted as much last year, when it permanently banned importation of 43 types of foreign-manufactured semiautomatic assault weapons—including 9 covered by this legislation—because they had no sporting purpose. Clearly, it makes little sense to ban foreign firearms that are considered to be dangerous while permitting the domestic manufacture of similar firearms to continue unabated.

Mr. President, both experience and common sense tell us that a ban on these types of firearms will help to staunch the supply of these weapons in the hands of criminals and crazies. The fewer the number of these guns that are in civilian hands, the lower the chance that a shipment will go awry, or that an assault weapon will be stolen from a law-abiding citizen. In the wake of the 1986 ban on new machine guns, the Drug Enforcement Administration found that its seizure of machineguns have decreased, while seizure of other weapons has increased.

Mr. President, for my father, gun control was not a liberal issue. It was not a conservative issue. It was a law and order issue. And so it should be today. The legislation before us today is backed by a host of law enforcement groups, including the National Sheriffs Association, the National Association of Police Organizations, the Fraternal Order of Police, the Interna-

tional Association of Chiefs of Police, and the Police Executive Research Forum. When law enforcement officers tell us that they are facing a new problem in the battle against criminals, we owe it to them to listen, and to help in any way we can to make their work easier and the odds against their survival better.

I urge rejection of the Hatch amendment.

Mr. DECONCINI. 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. DECONCINI. 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. DECONCINI. Mr. President, parliamentary inquiry. Whose time is being charged in this quorum call?

The PRESIDING OFFICER. The Senator asked for the quorum call. The time is charged against him.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the time for the quorum call not be charged against either side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SIMON. Mr. President, I speak with the consent of the Senator from Arizona, who controls the time here.

First of all, I want to commend my colleague from Arizona for showing incredible courage. What we need in this body is more people who have the fortitude to stand up and say what is in the best interest of this country. I have seen him do that time and time again in committee, and here he is doing it on the floor of this body, and I want him and everyone to know I am proud to serve with him.

There were two points the Senator from Arizona made just a little bit ago that I would like to repeat and then make a few other comments. First, the survey by the Oakland police, that of the guns confiscated in the process of drug raids and so forth. Twelve percent of those guns were obtained illegally.

Let us not fool ourselves with this myth that if we pass this, it will not make any difference to the criminal element. The reality is that it is going to make a difference. Perhaps not a huge difference, but a difference, and a huge difference to those families where needless death has occurred.

Second, while it is not part of this bill, the proposal by the administration, the staff, that BATF be cut by 185, that is not the direction we ought to be going in if we are interested in law enforcement in this country.

Will this amendment solve all of the problems we have? Absolutely not. No one pretends this. The real question is—and I say this to my colleagues from Idaho for whom I have great respect—will this proposal in this bill, thanks to the Senator from Arizona, discourage proliferation? I think the answer is that it can. To what degree, we do not know. But let us give it a try.

I have to say, as I approach various amendments on this floor, sometimes I consider a lot of them very gray; they are not clear cut. This one, at least to the Senator from Illinois, is clear cut. This one is a question of whether we are going to provide greater safety for the people of our country. And I know the political liability. It is no secret that some of the people on my staff are urging me not to vote the way I just voted on the Metzenbaum amendment, and the way I am voting on this one. But let us all recognize that we are not going to be here forever.

I just, a couple of hours ago, learned that my wife's brother died. It makes you think about how long you are going to be around here. Whether it is death or an election or retirement, we are not going to be around here forever, and we ought to be thinking about what we can contribute. I would like to contribute something substantial. In a small way, we can do it right here. One-half percent of the weapons of this country are the kind described in the DeConcini amendment. Yet, they are involved in about 30 percent of the crimes. Can we do better? Well, of course, we can do better.

They call one gun the "street sweeper." Why do they call it the street sweeper? Is it because we can clean our gutters and get all the candy wrappers and Pepsi cans off the streets? Of course not. It is called a street sweeper because we can sweep the streets of people. That is the only purpose of that gun.

Do we need to tolerate that in our society? I do not think so. I remember the testimony of the chief of police of Los Angeles who described himself as a conservative Republican, who said that 60 percent of the people who were killed by these guns are innocent bystanders. But he said:

> If you do not do something to stop the proliferation of these weapons, I am going to ask for these weapons for my police. You know what will happen if I have to ask for them for my police? Sixty percent of the people who are going to be killed are going to be innocent bystanders.

Are we going to have an endless arms race here? I hope we can do better. I hope, frankly, that we can work out some kind of a compromise. I asked for a meeting with the officers of the National Rifle Association in my office, and they were there, together with their counsel, for whom I have great respect. We all know him. But it was very clear when we met in my office that they were not interested in any practical compromise, because they felt they had the votes here today to beat this kind of an amendment, or any other amendment that comes up.

Maybe they are right today. But I just add that I have been in this business long enough to know that the pendulum swings from one side to the other. The coal industry in my State opposed any acid rain legislation. I told them years ago, there is going to be acid rain legislation, and you ought to be formulating it so that it is sensible, so that it does not hurt the Midwest. They did not want to have anything to do with that. They were going to resist all acid rain legislation.

You know what happened. We passed it, and it hurts the Midwest. I do not know what will happen, but the Midwest will get hurt and part of the reason is that the coal industry in my State, in the Midwest, did not have the foresight to say let us get a sensible compromise.

The National Rifle Association people who are unwilling to work out sensible compromises may well win today and tomorrow and the next day. But let me tell you the danger is that that pendulum is going to swing too far.

I live in hunting territory down in southern Illinois. Our home on 12 acres is right next to the Shawnee National Forest. I see more deer than I do people most days. The last time I was home I saw 16 deer right near my place. I am around hunters all the time.

I want to defend the rights of hunters and responsible citizens to have guns. But that is not what this is about. That is not what this fight is about.

This bill is not the answer to all the crimes that we have in this country. There is no single answer. But this bill provides a part of the answer and we ought to be willing to make that step. It takes a little bit of courage on our part, not as much courage as the Senator from Arizona has shown, but a little bit. I hope we would have the courage to do it.

We face the choice, and it is really a fairly simple choice. We face the choice of siding with the gun lobby or the law enforcement people. In that choice, I am going to stick with the law enforcement people.

Mr. President, I am going to ask for quorum call. I ask unanimous consent that the time of the quorum call not be charged to either side.

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

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

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

MORNING BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent that we have a period of morning business now with Senators permitted to speak therein; that the time not count against the amendment.

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

MESSAGES FROM THE HOUSE

At 9:38 a.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. 4151. An act to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes.

At 6:44 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4252. An act to authorize the Secretary of the Air Force to purchase certain property at Pease Air Force Base, New Hampshire.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 324. Concurrent resolution concerning human rights, democracy, and illicit narcotics production and trafficking in Burma.

MEASURES REFERRED

The following bill was read the first and second time by unanimous consent, and referred as indicated:

H.R. 4151. An act to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes; to the Committee on Labor and Human Resources.

H.R. 4252. An act to authorize the Secretary of the Air Force to purchase certain property at Pease Air Force Base, NH; to the Committee on Armed Services.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 324. Concurrent resolution concerning human rights, democracy, and illicit narcotics production and trafficking in Burma; to the Committee on Foreign Relations.

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-3017. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, a report entitled "Medicare's Disproportionate Share Adjustment for Hospitals"; to the Committee on Finance.

EC-3018. A communication from the Secretary of Labor, transmitting, pursuant to law, the quarterly report on the expenditure and need for worker adjustment assistance training funds under the Trade Act of 1974; to the Committee on Finance.

EC-3019. A communication from the Assistant Secretary of Legislative Affairs, U.S. State Department, transmitting, pursuant to law, a report on what steps the United Nations Environment Program [UNEP] had taken to implement the concerns expressed by the General Accounting Office in its June 1989 study on UNEP; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-495. A resolution adopted by the Senate of the State of Hawaii to the Committee on Commerce, Science, and Transportation.

"SENATE RESOLUTION NO. 5

"Whereas, the Pacific states, which include Alaska, Washington, Hawaii, Idaho, Oregon, California, and the Canadian Province of British Columbia share a common resource, the Pacific Ocean; and

"Whereas, a large part of the economy of these states depends on the renewable resources of the Pacific Ocean; and

"Whereas, it is the goal of these Pacific states and the Province of British Columbia to conserve the long-term values, benefits, and natural resources of the Pacific Ocean and to set an example by giving priority to the proper management and protection of renewable ocean resources over nonrenewable ones; and

"Whereas, the Pacific Ocean's renewable resources are continually threatened with degradation and destruction from improper offshore oil and gas development, potential seabed mineral mining impacts, and the potential oil spills resulting from transshipment of oil; and

"Whereas, many proposed developments originate with the federal government, but impact Pacific states directly; and

"Whereas, ocean developers and shippers would prefer to work cooperatively with one regional body which overseas ocean resources; and

"Whereas, the federal government has encouraged states to work together on ocean issues through the Coastal Zone Management Act; and

"Whereas, Section 309 of the Coastal Zone Management Act provides advanced Congressional consent for a compact of Pacific states; and

"Whereas, a compact between the Pacific states and the Province of British Columbia would provide a method to address common needs and concerns in the Pacific Ocean; and

"Whereas, regional cooperation, planning, and action are required to achieve the ocean conservation goal of Pacific states: Now, therefore, be it

"Resolved by the Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1990, That the United States Congress, the Pacific state legislatures, and the legislature of the Province of British Columbia are respectfully urged to support the establishment of a compact of Pacific states and the Canadian Province of British Columbia to provide for future planning and protection of ocean resources which are of regional concern, develop a coastwide oil spill response plan, and to oversee the management and utilization of ocean resources so as to ensure their continued contribution to the economies of Pacific states and the Province of British Columbia; and be it further

Resolved, That the Ocean Resources Committee of the Western Legislative Conference of the Council of State Governments is urged to develop specific compact language for transmittal to the legislatures of the affected states and province; and be it further

Resolved, That should Idaho's inclusion as a signatory of the compact interfere with Section 309 of the Coastal Zone Management Act, then Idaho be precluded from being a signatory; and be it further

Resolved, That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Members of Hawaii's congressional delegation, the Ocean Resources Committee of the Western Legislative Conference of the Council of State Governments, and to each of the presiding officers of the legislative bodies of each Pacific state mentioned, and the Canadian Province of British Columbia."

POM—496. A joint resolution adopted by the General Assembly of the State of Colorado; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION 90-23

"Whereas, The federal government's enforcement of its "no net loss" of wetlands policy has become mired in controversy; and

"Whereas, in the past, marshes, swamps, bogs, and wet meadows were not associated with environmental protection issues; now deemed "wetlands", such lands are the focus of stringent enforcement action; and

"Whereas, The definition of a wetland is imprecise and broad and susceptible to so many interpretations that almost any mud puddle or dry bottom land qualifies as a wetland; and

"Whereas, The "no net loss" of wetlands policy is also vague and imprecise and in need of significant clarification; and

"Whereas, Governmental agencies, in their efforts to protect wetlands, are, in effect, condemning property without either due process or just compensation because once property is designated as a wetland it become off-limits for farming and ranching activities; and

"Whereas, "Normal" farming and ranching activities are to be exempt from permitting requirements for dredging and filling wetlands; and

"Whereas, The agricultural exemption for basic production practices is being inconsistently applied by the Environmental Protection Agency and the U.S. Army Corps of Engineers; and

"Whereas, There are a number of instances where farmers and ranchers have been fined or imprisoned for continuing to farm and ranch their lands consistent with longstanding farming and ranching activities; and

"Whereas, the results of implementing such stringent enforcement action are beginning to emerge, with consequences causing great hardship to landowners: Now, therefore, be it

"Resolved by the Senate of the Fifty-seventh General Assembly of the State of Colorado, the House of Representatives concurring herein:

"(1) That the Congress of the United States pass the Agricultural Wetlands Exemption Act introduced in the Second Session of the One Hundred First United States Congress.

"(2) That the policy of "no net loss" of wetlands be clarified and simplified for purposes of equitable and consistent enforcement.

"(3) That the definition of wetlands and the delineation criteria with respect to identifying a wetland be clarified with specificity; and be it further

"Resolved, That a copy of this Resolution be transmitted to the Chief Justice of the United States Supreme Court, the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and each member of Congress from the State of Colorado."

POM—497. A resolution adopted by the Northeast Georgia Presbytery; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 648. A bill to amend the Securities Exchange Act of 1934 (Rept. No. 101-300).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 1109. A bill to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System (Rept. No. 101-301).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1839. A bill to provide authorization of appropriations for activities of the National Telecommunications and Information Administration, and for other purposes (Rept. No. 101-302).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1875. A bill to redesignate the Calamus Dam and Reservoir authorized under the Reclamation Project Authorization Act of 1972 as the Virginia Smith Dam and Calamus Lake Recreation Area.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Tommy G. Thompson, of Wisconsin, to be a member of the Board of Directors of the National Railroad Passenger Corporation for a term of 4 years.

Tommy G. Thompson, of Wisconsin, to be a member of the Board of Directors of the National Railroad Passenger Corporation for the remainder of the term expiring April 27, 1990.

Rear Adm. William J. Kime, U.S. Coast Guard, to be Commandant, U.S. Coast Guard for a term of 4 years with the grade of admiral while so serving.

Andrew Camp Barrett, of Illinois, to be a member of the Federal Communications Commission for a term of 5 years from July 1, 1990.

The following rear admiral, as Vice Commandant, U.S. Coast Guard with the grade of vice admiral while so serving:

Martin H. Daniell, Jr.

The following rear admiral, as Commander, Pacific Area, U.S. Coast Guard with the grade of vice admiral while so serving:

A. Bruce Beran

The following officer of the U.S. Coast Guard Reserve for appointment to the grade of rear admiral (lower half):

George R. Merrillees.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORE (for himself, Mr. PELL, Mr. MITCHELL, Mr. LEAHY, Mr. WIRTH, Mr. KERRY, Mr. BAUCUS, Mr. BIDEN, Mr. ADAMS, Mr. CRANSTON, and Mr. LIEBERMAN):

S. 2666. A bill to authorize the United States contribution to an international account established by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer, for the purpose of assisting developing nations in their efforts to comply with the provisions of the Protocol, and for other purposes; to the Committee on Foreign Relations.

By Mr. KENNEDY:

S. 2667. A bill to establish a National Needs Trust Fund to invest the peace dividend in the future of America; to the Committee on Labor and Human Resources.

By Mr. MITCHELL:

S. 2668. A bill to amend the Internal Revenue Code of 1986 to exempt certain transportation by ferry from the tax imposed on transportation by water; to the Committee on Finance.

By Mr. JOHNSTON (by request):

S. 2669. A bill to provide for increases in appropriation ceilings for land acquisition and development in certain units of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. REID:

S. 2670. A bill to amend the Trade Act of 1974 in order to require reciprocal responses to foreign acts, policies, and practices that deny national treatment to United States investment; to the Committee on Finance.

By Mr. CRANSTON:

S. 2671. A bill for the relief of Restituta Cayubit Brick; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 2672. A bill to establish a United States Marshals Foundation; to the Committee on the Judiciary.

By Mr. KOHL:

S. 2673. A bill for the relief of Dragan Stankovic; to the Committee on the Judiciary.

By Mr. McCLURE:

S. 2674. A bill to provide for the reestablishment of the gray wolf in Yellowstone National Park and the Central Idaho Wilderness Areas; to the Committee on Energy and Natural Resources.

By Mr. BRADLEY (for himself and Mrs. KASSEBAUM):

S.J. Res. 323. Joint resolution designating November 11 through 17, 1990, as "Geography Awareness Week"; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. INOUYE, Mr. ADAMS, Mr. CHAFEE, Mr. DIXON, Mr. GLENN, Mr. HEFLIN, Mr. HOLLINGS, Mr. LAUTENBERG, Mr. McCLURE, Mr. MOYNIHAN, Mr. PELL, Mr. ROTH, Mr. SANFORD, Mr. THURMOND, and Mr. WARNER):

S.J. Res. 324. Joint resolution to designate June 3, 1990, as "Week of the National Observance of the 50th Anniversary of World War II"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. GORE (for himself, Mr. PELL, Mr. MITCHELL, Mr. LEAHY, Mr. WIRTH, Mr. KERRY, Mr. BAUCUS, Mr. BIDEN, Mr. ADAMS, Mr. CRANSTON, Mr. BUMPERS, and Mr. LIEBERMAN):

S. 2666. A bill to authorize the United States contribution to an international account established by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer, for the purpose of assisting developing nations in their efforts to comply with the provisions of the Protocol; and for other purposes; to the Committee on Foreign Relations.

OZONE PROTECTION FUNDING ACT

Mr. GORE. Mr. President, I would like to discuss the Ozone Protection Funding Act of 1990. This legislation, which I am introducing today, authorizes funds for the purpose of assisting developing nations in their efforts to comply with the Montreal protocol on substances that deplete the ozone layer, including bilateral assistance and the U.S. contribution to an international account established by the parties to the protocol.

I remember quite well, Mr. President, when we ratified the protocol. It is the first and, to date, the most important international agreement protecting the global environment. That

protocol contained a passage endorsed by all here who voted for it which clearly contemplates assistance from the wealthy developed nations of the world to the poorest nations in the process of attempting to develop their economies, in order to help them develop and use substitutes for the chlorofluorocarbons that are responsible for depleting the stratospheric ozone layer.

Mr. President, this problem is, in some ways, difficult to discuss simply because it sounds a little like a science fiction movie. Many people still have difficulty believing that the environment of the entire Earth could be affected by the activities of human civilization. We tend to assume that our activities cannot possibly have any irreparable effect on the Earth itself because the Earth is such a large place.

Mr. President, 500 years ago, most people believed the Earth was flat and they walked ouside and looked at the horizon and the Earth did, indeed, look flat. The new model of a round Earth was based on mathematical calculations: difficult to touch, difficult to understand, and there was, indeed, great resistance to those who urged upon humankind the new realization that the Earth was not flat but was round.

Today when one walks outside and the environment seems all right, there is the temptation to conclude that all this talk about a threat to global environment is nonsense and there is nothing really amiss. But, Mr. President, something is amiss. There has been a dramatic change. First, the population explosion is so dramatic. It took a million years to reach a population of 2 billion people, and yet in the last 40 years, we have gone from 2 to 5 billion and in the next 40 years we will go at least to 10 billion and perhaps to a number higher than that.

Second, the technological and scientific revolution has greatly magnified the ability of each human being on Earth to have an impact on the environment.

Third, we have a very old way of thinking about our relationship to the environment which does not take into account our new collective ability to change the Earth's environment. As an example, Mr. President, the air in this historic Chamber all of us in here now are breathing into our lungs has six times as many chlorine atoms as it did 40 years ago or when this Chamber was built or, for that matter, 3 billion years ago in this particular spot on the surface of the Earth. It is not surprising that in a period of only 40 years, the air everywhere on Earth could be changed so dramatically as to increase the concentration of a basic element—chlorine—by 600 percent at the North Pole, the South Pole, in West Virginia, in Tennessee, in Washington, DC, and Beijing, China—everywhere on Earth? That is because 40 years ago, we began using a new family of chemicals called chlorofluorocarbons. These chemicals were part of the industrial and scientific revolution which has been accelerating throughout this century and burst into a new form after World War II with the cessation of hostilities and the diversion of moneys into the building up of our industrial strength which has had such beneficial effects but which has also had some harmful and deleterious effects for the environment which we are only now beginning to recognize.

That chlorine which we are breathing into our lungs now does not, as far as we know, hurt human health directly. But it is those chlorine atoms in the stratosphere which are responsible for eating away the hole in the ozone layer and thinning the stratospheric ozone layer above Washington, DC, Tennessee, West Virginia, China, everywhere else on the face of this Earth.

I noticed in the newspapers yesterday the reports of the explorers who had just completed their trek across Antarctica. Our colleague from Minnesota, Senator DURENBERGER, has given the Senate regular updates on their journey which I have enjoyed. Upon the conclusion of their journey, they reported on something that was not discussed very much during their trek. They walked under the ozone hole as they were crossing the continent of Antarctica, and they had to wear special protective clothing; they had to keep every part of their skin covered up because the extra ultraviolet radiation striking the surface of the Earth underneath the ozone hole is so dangerous to human health.

One of the explorers accidentally exposed the skin of his face for a few hours during their journey, and he was so burned that he became nauseous for a long period afterward. He required extensive medical attention and did survive—all this because of just a few hours underneath this intense ultraviolet radiation.

Mr. President, the circumstances in Antarctica are so unique that the dangers there during 3 months of the year now exceed the dangers from ozone depletion anywhere else in the world. But it is a clear warning.

Last year another team of scientific explorers came back from the Arctic region of the North Pole with the disturbing and troubling news that now an ozone hole has opened above the North Pole—a smaller one, not as deep as the one above the South Pole, but clearly another warning.

The air above this Capitol building in the stratosphere has thinned; the ozone layer has thinned about 3 to 4 percent over the last few decades. The scientists tell us that if we continue to put these chemicals into the atmosphere, damage to the ozone layer will accelerate.

What will be the consequences? Skin cancer is one of the best known consequences. Indeed, in parts of the world now, those inhabited parts of the world closest to the South Pole, skin cancer rates are climbing dramatically. In fact, in Australia, Mr. President, when the weather report comes on the news each day, they report on the temperature, the barometric pressure, the wind speed, and the levels of ultraviolet radiation.

In Patagonia, in the southernmost part of South America, there has been advice from the Health Ministry of Argentina to the citizens of the southernmost inhabited community of that nation to stay indoors during the 3 months of the year when the ozone layer is thinnest in the Southern Hemisphere, redefining the relationship between men, women, children and the sky.

Do we wish to stand and do nothing as this threat continues to worsen worldwide? Should we pretend the danger is only at the South Pole or the North Pole when we know full well from the evidence presented by the scientists that it is a threat present all over the Earth? I think not.

Mr. President, my religious faith, if I may be indulged for a moment in some personal comments, includes the parable of the unfaithful servant who was left in charge of the master's house and who was told that if the vandals came to ransact the house while he had fallen asleep, that would be no excuse; he would be held accountable nonetheless.

In a manner of speaking, this Earth is the home in which we all live, and in effect it is being ransacked today by the collective actions of all of us using these dangerous chemicals, proceeding in a manner that results in destruction of the global environment. It is insufficient for us to claim that we do not know anything about it; we are asleep; we are not aware of the problem; and therefore it does not matter whether we react to it or not.

What do we tell our grandchildren when they find an Earth very different from the one we inherited from our grandparents? Do they have a right to expect stewardship from us, a level of concern and care for the Earth appropriate to the threat which it now faces? Of course they do. When will we wake up?

The least controversial threat of all is the threat to the stratospheric ozone layer. There are many others: global warming, which I have discussed in this Chamber on many occasions; the destruction of the rain forests; the loss of living species. During the lifetimes of the young pages who work in this Chamber, the scientists

tell us we may see the loss of more than half of all the living creatures God put on this Earth unless we change the pattern of activity which is now leading to their destruction.

But today let me focus on this least controversial issue, that is, the destruction of the stratospheric ozone layer by a family of chemicals just used in the last four decades. We in the United States and in the other nations wealthy enough to have a robust industrial sector have been developing substitutes for these chlorofluorocarbons, and for most of the applications where chlorofluorocarbons are now used, substitutes are becoming available rapidly. We have entered into this international agreement to phase out chlorofluorocarbons as quickly as possible.

What about the developing nations, the poorer nations aspiring to lift their standards of living to some level approximating that enjoyed in the United States of America, nations like India, China, the poorest nations in Africa and Latin America? They agreed to consider joining this global effort to phase out these chemicals if they could look forward to some assistance in introducing the substitutes that are now becoming available in the developed world. We agreed in principle to that kind of assistance.

Then the world entered a follow-up negotiation to put some teeth in the Montreal Protocol, to say to the entire world, "Now we are ready to be serious about solving this problem, we are ready to really put into place the measures to introduce the substitutes." Other nations in the world which have been signatories to the Montreal protocol agreed to accept this principle and to participate in the formation of a development fund that would assist the poorest nations in introducing the substitutes for these harmful technologies.

One Nation, the United States, decided not to go along. Did our Environmental Protection Agency take that position? No, of course not. The Environmental Protection Agency knows full well how serious this crisis is. They advised the President, of course, to join this fund, and to follow through on the commitments we made in the Montreal Protocol.

What about the State Department? Of course, the State Department advised the President, yes, we must join this fund, and take the responsible actions to save the Earth's environment.

Then why would the President reject the advice of the Environmental Protection Agency and the State Department, the two parts of his administration most directly involved with the issue at stake here? Because Mr. John Sununu in the White House said the ideology is more important than saving the Earth's environment, that ideology should guide this decision, and the President, unfortunately, decided to reject the advice of the environmental policymakers in his administration, to reject the advice of the State Department, and adopt a "Go-it-alone; What, me worry?" policy on the environment. It is a mistake, Mr. President, a very serious mistake.

This policy will, I hope, be ultimately reversed. It is so wrong. It really has to be reversed, but a great deal of damage can be done between now and the time the President finally wakes up and reverses this policy. As a result, I am introducing legislation today to have the Congress of the United States take the initiative where the President of the United States has refused to do so.

I am proud to be joined in this effort by my good friend and colleague from Rhode Island, the chairman of the Foreign Relations Committee, Senator PELL; by the distinguished majority leader, my friend, Senator MITCHELL; by my friend, the chairman of the Foreign Operations Subcommittee of the Appropriations Committee, which appropriates the money in this case, Senator LEAHY; by my friend from Colorado, and my colleague and partner in so many efforts to protect our environment, Senator WIRTH; by my friend from Massachusetts, who has also been an invaluable ally in efforts to protect the global environment, Senator KERRY; by my friend from Montana, who has been an outstanding leader in this policy area, Senator BAUCUS; by my friend from Delaware, long active in this field, Senator BIDEN; by my friend from Washington, who has expressed his concern and been active on the issue, Senator ADAMS; by my friend from California, Senator CRANSTON, who has provided distinguished leadership in this area; by my friend from Arkansas, who has brought effectiveness and eloquence to this issue from the early days of this concern, Senator BUMPERS.

Mr. President, earlier this month, along with many of my colleagues, I heard the news that President Bush had decided to go it alone and put forward a policy in direct opposition to what every other nation in the world was doing on this issue, and I sent a letter to the President which was cosigned by 11 of my colleagues. At the conclusion of my statement, I will ask unanimous consent to put that letter into the RECORD.

But let me just paint the picture. The negotiations were in Geneva at the time. They were putting the final touches on this new agreement. Then the news was delivered by our negotiators that shocked the world community. The entire conference broke down. There was an uproar. Every single speaker from that point forward in this international negotiation concentrated exclusively on trying to figure out what in the world was going on in the minds of the President and his principal advisers on this subject, Mr. Sununu and Mr. Richard Darman of the Office of Management and Budget, that they would override the EPA and the State Department.

It was such a serious mistake. There is still a great deal of puzzlement around the world as to why we would have originally signed the Montreal protocol if the President was not prepared to go through with it and to live up to it at a time when the threat is so evident. It really is a very puzzling development. And, of course, it is a diplomatic embarrassment brought to us by the "floppy hats and sunglasses" gang within this administration. It is an embarrassment, and something, which as I have said earlier, I hope that we will soon change.

So, Mr. President, I believe it is high time for this administration to change its policy, stop the foot dragging, and begin to offer some leadership instead.

I would like to accompany the legislation with a series of statements from leading publications in this country: Time magazine, which entitled its analysis of this issue "A Baffling Ozone Policy"; the New York Times, which entitled its editorial opinion "Overboard on Ozone"; the Washington Post, which entitled its editorial opinion "A Serious Mistake on CFCs"; and lengthy business analysis entitled "Pennywise on Ozone?"; the editorial from the Chattanooga Times entitled "Backsliding on the Environment", and then the text of the letter to which I referred earlier, which has been signed by most of the cosponsors that I mentioned, and in addition Senator JOE LIEBERMAN of Connecticut; the Senator from New Jersey [Mr. LAUTENBERG]; and the other Senator from New Jersey [Mr. BRADLEY]. I ask unanimous consent to print those documents in the RECORD, as well as the full text of the bill.

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

S. 2666

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ozone Protection Funding Act of 1990."

SEC. 2. FINDINGS.

The Congress finds that—

(1) the depletion of the stratospheric ozone layer by manmade chemicals is a global phenomenon, whose solution will require national action and international cooperation;

(2) while stratospheric ozone depletion has had its most pronounced effects in polar regions, depletion is occurring worldwide, with current levels over the United States already reduced by about 2 percent to 3 percent;

(3) a depleted ozone layer will allow more ultraviolet-B radiation to reach the Earth's surface, with serious health implications for

all peoples, as well as deleterious effects on agricultural crops and natural ecosystems;

(4) in order to terminate emissions of chlorofluorocarbons and other ozone-depleting substances as rapidly as possible, the highest priority must be given to developing and deploying safe alternative chemicals and technologies worldwide, to replace ozone-depleting substances;

(5) many developing nations that have not signed the Montreal Protocol on Substances that Deplete the Ozone Layer are now acquiring inefficient, chlorofluorocarbon-based refrigeration equipment, which could lead to large increases in emissions of ozone-depleting chemicals in the coming decades;

(6) in order to assist developing nations in acquiring non-ozone depleting chemicals and technologies, the Parties to the Montreal Protocol agreed in principle to provide special funding for that purpose; and

(7) the United States' share of that assistance has been determined during recent negotiations to be a minimum of $25 million over the next three years, with a possible increase to $75 million over the next three years if the remaining nations that have not ratified the Montreal Protocol do so.

SEC. 3. OBJECTIVE AND NATIONAL GOAL.

(a) The objective of this Act is to protect human health and natural ecosystems from all known and potential dangers due to depletion of the stratospheric ozone layer, which is or would be caused by emissions of chlorofluorocarbons, halons, or other ozone-depleting chemicals.

(b) In order to achieve the objective of this Act, it is the national goal to provide a United States contribution to an international account established by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer, for the purpose of assisting developing nations in their efforts to comply with the provisions of the Protocol.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of State up to $25 million in each of Fiscal Year 1991, Fiscal Year 1992, and Fiscal Year 1993, for the purpose of assisting developing nations in their efforts to comply with the provisions of the Montreal Protocol on Substances that Deplete the Ozone Layer, including bilateral assistance and the United States contribution to an international account established by the parties to the Protocol.

U.S. SENATE,
Washington, DC, May 9, 1990.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to request a meeting with you at the earliest possible date to discuss your recent decision to oppose efforts to strengthen the Montreal Protocol. We are deeply disappointed in your decision and gravely concerned about its implications for the United States and for all of the nations of the world. We strongly believe this decision should be reversed immediately so that the Geneva negotiations may produce meaningful new agreements.

By refusing to support an international effort to help developing nations move toward environmentally safe technologies, the United States is threatening to undermine the Montreal Protocol, the single most important international agreement to date to protect the world's environment. At a time when the United States should be providing leadership in the world community, it is instead being isolated within a world community that recognizes an urgent problem and the critical need for action.

We are concerned that advice from the Environmental Protection Agency and the Department of State is being ignored and, in fact a course opposite to their recommendations is being pursued by our negotiators. It is unconscionable to us that U.S. negotiators would be instructed to reject a provision calling the industrialized nations of the world to provide minimal sums for technology conversion to developing nations who want to comply with the Protocol. Serious questions remain about our policy in light of this action.

The negotiations underway in Geneva are critical to the massive international effort to reduce emissions of ozone-depleting chemicals—an effort prompted by hard, scientific evidence that if we reduce emissions of these chemicals we can protect the ozone layer which shields all life on earth from dangerous ultraviolet radiation.

Here in the U.S. Senate, we acted to strengthen our laws to reduce the use and emissions of these chemicals: we called for the faster phase-out of ozone-destroying chemicals, we called on the federal government to develop a plan to promote the safest alternatives, and we called for the immediate prohibition on the export of technologies that produce these chemicals. We believe that U.S. companies could be in a position to develop alternatives, and to lead the world to post-CFC technologies. This would not only be a great benefit for the environment, but also for U.S. competitiveness in world markets.

Immediate action is needed to change the direction of Administration policy on these issues. We look forward to discussing these matters with you further as soon as possible.

Sincerely,

Al Gore, Alan Cranston, Patrick J. Leahy, John F. Kerry, Joseph Lieberman, Max Baucus, Claiborne Pell, Joseph R. Biden, Jr., Frank R. Lautenberg, Timothy E. Wirth, Brock Adams, Bill Bradley.

[From time magazine, May 21, 1990]

A BAFFLING OZONE POLICY

George Bush has come under heavy fire for failing to live up to his promise to be the Environmental President. Last month, he infuriated environmentalists by arguing that action against the threat of global warming should wait for more research. The man behind that go-slow position was John Sununu. An announcement by the U.S. delegate to a United Nations meeting in Geneva last week came as a further shock: the U.S. will oppose the creation of a new $100 million fund to help developing countries avoid using chlorofluorocarbons.

CFCs, used as refrigerants and solvents, are believed to be destroying the planet's ozone layer, and President Bush has joined in a worldwide call for sharp cut in their use. But by refusing to supply additional funds to help Third World countries switch to substitutes, the U.S. would make reductions difficult. The White House argues that the money should come from existing World Bank funds and not from new contributions—but also admits that the World Bank does not have the extra money available.

At least there is some legitimate controversy over the science of global warming. There is virtualy none when it comes to ozone depletion. So why is the U.S. balking, when the country's share would amount to no more than $25 million over the next three years? Sununu and Budget Director Richard Darman contend that the economic costs of protection the environment have been overlooked. They fear the precedent of turning money over to international bodies that may try to dictate how countries, including the U.S., respond to environmental problems.

Even with Sununu's and Darman's influence, such stances may in the end prove to be unsustainable. Predicts, Senator Albert Gore of Tennessee: "If the Administration persists in its position, eventually it will be so isolated and so embarrassed that the President will have to reverse himself." Thus Bush's campaign pledge would be fulfilled, but against the President's will.

[From the New York Times, May 11, 1990]

OVERBOARD ON OZONE

Every President needs a Darth Vader in the White House to thwart special pleaders and scrutinize even apply-pie issues. President Bush's chief of staff, John Sununu, and Budget Director, Richard Darman, have played this role zestfully in curbing what they see as excessive solicitude for the environment. But in their latest foray, an assault on the international effort to protect the ozone layer, they have simply abandoned all sense of proportion and judgment.

The U.S. persuaded the world to reach agreement on phasing out production of CFC's, a class of industrial chemicals that destroy the life-protecting layer of ozone in the upper atmosphere. Many developing countries that signed the Montreal protocol of 1987 asked for help in converting to the most costly substitutes, and Washington agreed in principle to provide it.

An international group in Geneva has been working out the details, and proposed setting up a fund to which the U.S. would contribute around $20 million a year. The State Department and Environmental Protection Agency urged the Administration to support the proposal. But Mr. Darman and Mr. Sununu have now instructed that it be opposed.

There is only one ozone layer, and there are a lot of people in India and China. It's in America's own interest for these and other developing economies to abandon CFC's as soon as possible. If the price tag is only $20 million, it is bargain, particularly as the Treasury is reaping windfall profit taxes of $5 billion from the CFC industry as it phases down.

The considerable damage already done to the ozone layer has been caused by CFC's manufactured in the United States. It's not too much to ask that Americans help less-developed countries avoid the same error.

Every speaker from other countries at the Geneva conference expressed dismay at the U.S. stand. It's glorious to stand along against the world when one is right, less so to cling to a position that puts the U.S. in the doghouse of world opinion.

Mr. Sununu and Mr. Darman are said to fear that modest help on CFC's now would lead to greater demands later if the world agrees to take action against the gases of global warming. But that's an issue for the future, to be dealt with on its merits. The threat to the ozone layer, and all living things on the planet, is present and real.

A Secretary of the Interior in the Reagan Administration once suggested that the way to solve the ozone problem was to continue producing CFC's but let people buy sunglasses and sunscreen lotion to protect

against the bath of ultraviolet rays. Mr. Bush risks gaining a reputation for equal profundity unless he quickly instructs Messrs. Darman and Sununu to quit trifling with serious issues.

[From the Washington Post, May 11, 1990]

A SERIOUS MISTAKE ON CFC'S

This time President Bush has made a serious mistake in his environmental policy. He has suddenly pulled the United States out of the international plan, which it had supported until this week, to cut Third World production of the highly damaging gases known as CFCs. The rich countries had an agreement—or thought they had one—to put up a modest amount of aid to help poor countries convert their manufacturing from CFCs to less-harmful alternatives. CFCs generated on the other side of the Earth are a threat to the health of Americans. You have to wonder what's going on in the White House.

Mr. Bush was right earlier this year when he refused to lead a massive campaign against global warming. Some environmentalists are pressing for a hugely expensive and disruptive attempt to reduce emissions of carbon dioxide. But, as Mr. Bush said, the scientific evidence is far from adequate to support that. The administration sensibly proposed, instead, to go after those gases that are demonstrably dangerous for other reasons and which, by the way, would also contribute to global warming. The secretary of state, James A. Baker, laid out that policy in an excellent speech last February and, in fact, used CFCs as the leading example.

CFCs—chlorofluorocarbons—are widely used in refrigeration, air conditioning and the production of some plastics. When they escape into the upper atmosphere, they eat away at the high ozone layer, which protects the planet from radiation that causes skin cancer. A huge hole in the ozone layer has already appeared over Antarctica, and it is urgent to prevent it from widening farther. There is no scientific doubt at all about this one. The chemical industry is stoutly supporting the elimination of CFCs and is developing alternatives to replace them.

As for the money involved, the American contribution to the CFC aid fund would be $25 million over three years. That is less than 1 percent of the money raised by the tax imposed on CFC production in this country to speed up its disappearance. The extreme feebleness of the White House's defense of this new position on CFCs lends credence to the suspicions that it is based less on careful thought than on a visceral dislike of the environmental movement among some of the White House aides—notably, John H. Sununu, the chief of staff.

Immediately after the White House announced this decision, 12 Republican senators, led by John H. Chafee of Rhode Island, sent Mr. Bush a letter warning him that it's a classic case of being penny-wise and pound-foolish. The aid fund, they told him, is the world's best chance of getting the developing countries to join the industrial ones in preserving the ozone layer that shields us all. The Republican senators—Mr. Bush's friends and supporters—urged him to reverse himself. It's good advice.

[From the New York Times, May 16, 1990]

ECONOMIC SCENE: PENNY WISE ON OZONE?

(By Peter Passell)

It was time to ante up last week on the latest global deal to save the ozone layer, and the Bush Administration decided not to play: The White House announced it would not share the cost of weaning poor countries from the use of ozone-depleting chemicals before they became truly addicted. Subsidies to encourage the substitution of nonpolluting gases in air-conditioners, refrigerators and plastic insulation, the Administration suggested, would have to come from the existing resources of the World Bank.

This decision may not have surprised hard-line "greens" who have always interpreted President Bush's efforts to find a middle road to environmental virtue as a rationale for pollution as usual. But it bewildered political operatives who viewed American leadership on ozone as an easy way for the President to win points with the folks who reach for their checkbooks whenever they see a picture of a baby seal. Perhaps most important, it confounded policy analysts within the Administration who are eager to apply economic principles to pollution control and thought they had an ally in the White House.

Chlorofluorocarbons—CFC's for short—are cheap, nontoxic gases that are almost perfect as refrigerants and aerosols. Once released, however, they wreak havoc on the layer of ozone in the upper atmosphere that absorbs much of the ultraviolet radiation from sunlight. Most experts believe that a failure to control the production of CFC's and a few related chemicals would lead to dramatic increases in skin cancer and eye cataracts, as well as disrupting plant life at the base of the aquatic food chain.

According to the Environmental Protection Agency, the projected loss of ozone would lead to an extra 170 million cases of cancer by the year 2075 within the United States alone. The estimated cost in medical bills and premature mortality: $3.5 trillion. That is no misprint: $3.5 trillion.

Happily, though, an ozone fix would be relatively cheap. The E.P.A. estimates that a 50 percent cut in CFC production would eliminate about 95 percent of the damage. And the cost of the switch to less damaging chemicals would run to less than $40 billion. Or perhaps much less: Stephen DeCanio, an economist at the University of California at Santa Barbara, believes that cheaper, more efficient substitutes for CFC's now in the technological pipeline would reduce the cost to about $3 billion.

That is why the Reagan Administration signed onto the Montreal Protocol in 1987, agreeing to cut CFC use in half by the year 2000. Congress later put teeth into the decision, imposing a tax on CFC's that will encourage recycling and substitution, as well as collecting some $5 billion over the next five years. And this year President Bush went a step further, responding to new evidence of accelerating deterioration of the ozone layer by agreeing in principle to a complete phaseout of CFC's.

While the industrialized countries all seem prepared to bear the domestic costs of a rapid phaseout of CFC's, two larger potential users, China and India, do not. And their failure to go along would undercut the logic of a global agreement. China alone, Mr. DeCanio notes, plans to produce some 300 million refrigerators over the next few decades.

Consequently, northern Europe has been lobbying hard for a fund to subsidize the transfer of benign refrigeration technologies to the have-nots. And since Washington was asking Americans to spend billions of dollars to rid the country of CFC's, analysts widely assumed the Bush Administration would view its 20 percent slice of a $100 million-a-year carrot as a minuscule price to pay for broad compliance. But something happened to the Administration's position on the way to the latest global forum.

The least implausible explanation for Mr. Bush's tough line is that he fears the precedent. The $20 million token may be enough to convince the poorest third of the world to forgo CFC's. But delivery might lead to demands for a hundred times that much to require the use of fossil fuels that are implicated in global warming. Better, then, to rely on the stick rather than the carrot: The Administration wants to make CFC Treaty compliance a condition for receiving loans from the World Bank.

But even many of the Administration's friends believe the President's advisers are worrying about the wrong precedent. Since Mr. Bush took office, his economists have been urging caution before continuing big bucks to solving poorly understood environmental problems. By failing to act decisively when action plainly does make economic sense, the President is in danger of losing the initiative to those who care not a whit about costs.

[From the Chattanooga Times]

BACKSLIDING ON THE ENVIRONMENT

The Bush administration has taken the misguided position of reneging on a commitment to help developing nations phase out their use of chemicals that are destroying the Earth's protective ozone shield. This is hardly the work of an "environmental president."

Stratospheric ozones filters out excessive ultraviolet radiation from the sun, which can cause skin cancer, eye disease and damage to crops and wildlife. The primary culprits in the layer's disintegration are chlorofluorocarbons, commonly known as CFCs.

The Montreal Protocol of 1987 calls for a 50 percent cut in production and use of CFCs by 1999. And there is general agreement that meeting that goal should merely be a step toward eliminating these chemicals, widely used as refrigerants and solvents and for insulation foam.

But many of the developing countries that signed the Montreal Protocol did so with the understanding that the United States and other developed nations would help them make the transition to the more expensive substitutes for CFCs. The United States agreed in principle then to provide that assistance. Two months ago the United States agreed with other industrial nations to establish a new fund for financial and technical assistance to stop the use of CFCs in the developing world. Now the Bush administration opposes such a fund.

Ironically, the new U.S. position was made public as representatives of about 50 nations met in Geneva to prepare for a U.N. conference on strengthening the Montreal Protocol. The Bush policy was much discussed in Geneva, and it is not surprising that it was universally denounced.

A member of the Brazilian delegation noted that the ability of developing nations to adhere to the Montreal Protocol "depends on the political will of our partners in the developed world." And India and China, with their massive populations, have refused to sign the protocol absent assurances of financial assistance. So the Bush administration's position both dims the prospect of strengthening the treaty and makes it less

likely that the full promise of the existing protocol will be realized.

There is simply no good reason for Mr. Bush's backsliding. The U.S. contribution to the assistance fund would be only $20 million a year and could easily be paid from the $5 billion in excise taxes the government will collect from the CFC industry over the next five years. Moreover, it is appropriate that the United States, a major producer of the CFCs that have damaged the ozone layer, should help our poorer neighbors find a better way.

But there seems to be developing in the administration a hostility to international cooperation on environmental issues. There was, for instance, the U.S. effort at the recent conference on global warming to dampen enthusiasm for action on that issue. And in a recent speech, budget director Richard Darman raised the specter of environmentalism as a mask for political ideologies that represent a threat to American values. His attempt to impute sinister motives to those who call for global cooperation on solving global environmental problems should be repudiated by the president.

And it should be remembered that while blame for retrenchment on environmental issues is often laid at the doorstep of Mr. Darman or White House Chief of Staff John Sununu, George Bush is the president. What his administration does is his policy. Mr. Bush should acknowledge the wrongheadedness of the recent policy change on the CFC assistance fund and reverse it.

Mr. GORE. Thank you, Mr. President.

Mr. President, again on another occasion, I will take the floor with my colleagues who were members of the host delegation to the Interparliamentary Conference on the Global Environment for a full presentation of the recommendations and findings of that conference.

One of those findings addressed this issue I have spoken about this morning, and was fully consistent with the legislation that I am introducing today, and I commend this legislation to my colleagues.

I note that 12 of our colleagues on the Republican side of the aisle sent a separate letter to President Bush very similar to the one that 12 of us on this side of the aisle sent, urging the President to change his policy on protecting the ozone layer.

So it really is a bipartisan concern, and one which I hope the President will respond to.

Mr. PELL. Mr. President, today I join Senator GORE in introducing a bill which authorizes U.S. contributions to an international fund to help developing nations avoid dependency on the use of chlorofluorocarbons or CFC's. This bill is urgently needed.

In 1987, 23 nations, the European Community, and the United States, took a remarkable step in the history of international efforts to protect the global environment by negotiating the "Montreal Protocol on Substances That Deplete the Ozone Layer." This ground-breaking agreement committed signatories to reducing their emissions of CFC's by 50 percent by the year 1999.

Equally important, the signatories recognized that protection of the ozone layer would require a global effort and that for this effort to be effective, developed nations would need to provide assistance to developing nations to help them use substitutes for CFC's.

Unfortunately, 2 weeks ago, the Bush administration reneged on this commitment by opposing the creation of an international fund expressly for this purpose. This shortsighted decision made a mockery of administration claims to leadership on international environmental issues.

For $25 million over 3 years, the administration could have supported a fund that, by preserving the stratospheric ozone layer, could save thousands of lives over the next decade from the ravages of skin cancer and help prevent global climate change. Put another way, the administration has decided that the health of thousands of American citizens is not worth the $8 million annual contribution the United States would have made to the proposed CFC fund.

Not only does the administration's decision ignore the interests of the American people, it also undermines policy commitments most recently by Secretary of State Baker in a speech to the National Governors Association. In that speech, he noted:

> We fully recognize, however, that developing countries may need some additional aid in order to meet the incremental costs associated with fulfilling their international environmental obligations.

Mr. President, I for one support U.S. participation in the creation of a CFC fund. This fund is one of the best investments that we as a nation can make to protect the health of our people and the environment of our planet.

I would hope that in the few weeks prior to the next meeting of the parties to the Montreal protocol, the administration will also come around to support increased aid for creation of a CFC fund. This step would send a reassuring signal to our diplomatic partners and to the developing nations that the United States is serious about its commitments stemming from the Montreal protocol. In order for this policy reversal to take place, I believe it is essential that Secretary of State Baker reassert the State Department's role in formulating U.S. international environmental diplomacy; decisions on these issues should be made by the Secretary of State and not the White House Chief of Staff.

Mr. President, the bill we are introducing today underscores the U.S. commitment to protecting the global environment. I commend it to my colleagues and urge their support.

By Mr. KENNEDY:

S. 2667. A bill to establish a National Needs Trust Fund to invest the peace dividend in the future of America; to the Committee on Labor and Human Resources.

NATIONAL NEEDS TRUST FUND

● Mr. KENNEDY. Mr. President, today I am introducing legislation to encourage the Nation to invest in the future and meet the essential domestic challenges facing us. Dramatic changes in the Soviet Union and Eastern Europe have substantially reduced our defense needs. A major national debate is now underway to determine the size of the peace dividend and how to make effective use of the savings.

The most appropriate baseline to measure the size of the peace dividend is the savings in military spending above and beyond the budget request of the Bush administration. In effect, the President's request ignored the opening of the Berlin Wall and the far-reaching changes that have taken place in Eastern Europe and the Soviet Union. The administration proposed a 5-year plan for military expenditures in fiscal years 1991 through 1995 that simply reflected the gradually declining path of defense spending that we have been following ever since the peak of the Reagan military buildup in 1985.

In all likelihood, the actual size of the peace dividend, at least for the next fiscal year, will be determined by the outcome of the current budget summit. But the House of Representatives has already adopted a budget resolution that gives us a realistic estimate of the savings that can be achieved in Pentagon spending. The House-passed resolution proposes the following peace dividends, measured in terms of budget authority:

Fiscal year:	*Amount in billions*
1991	$24
1992	32
1993	43
1994	52
1995	60
Total 5 years peace dividend	211

These savings, averaging over $40 billion a year for the next 5 years, are large by any standard—except when measured against the magnitude of the unmet challenges we face. But if we invest these peace dividends wisely now and in the years ahead, we can make a sizable start in addressing these challenges, reviving our economy, and revitalizing our country.

In my view, because these domestic needs are so great, we should not use the peace dividend to reduce the deficit, as some have suggested. The Gramm-Rudman deficit reduction process has been on track in recent years, and it is still on track today, requiring us to balance the Federal budget by the mid-1990's.

We can reach that deficit target as planned, without dipping into the peace dividend or jeopardizing the unusual opportunity we now have to invest in long-neglected vital needs. Essential domestic programs, shortchanged to finance defense, should not be depleted further as part of any plan to resolve the current budget crisis or bail ourselves out of the massive savings and loan mess.

That does not mean I oppose any or all domestic spending cuts. We need to reduce nonessential spending wherever possible, and I have supported such cuts in the past. But we also need to devote significant new resources to meet essential domestic needs.

With our standard of living now only sixth in the world, our highest budget priority should be rebuilding our economy and investing in fundamentals that have long been ignored—from education and health care to research and transportation. These priorities all paid the price for the steep military buildup of the past decade. Now, because of the peace dividend, we have a once-in-a-lifetime opportunity to address these priorities properly, and we must not throw it away.

At the same time, the arrival of the peace dividend must not become an excuse for the needless proliferation of old spending programs or the random invention of new programs. The peace dividend is there to be invested, not just spent.

To avoid the danger that Congress and the administration will yield to special interest pleading and fritter away the peace dividend on pork barrel spending, the legislation I am introducing today creates a National Needs Trust Fund. Savings from the military budget will be invested through the trust fund in designated, critical national priorities—such as education, health care, research and development, job training, reviving our faltering transportation system, and other critical parts of our infrastructure, and converting military plants to peacetime production. Investments such as these are essential to our future, and we cannot afford to neglect them any longer.

In spending the peace dividend, we must judge both current and new programs by their actual performance, not just our good intentions. The returns must be measurable and real. Conditioning programs on results is critical to gathering public support for such spending. The peace dividend can become a way to start solving our problems, as distinct from merely throwing money at them.

We must start with the education of very young children, because our future depends on their generation. Head Start must be made available to 100 percent of eligible children, instead of the shameful 20 percent who are now served. We must encourage States and local governments to provide access to child care, and to begin education programs for all young children. Each dollar we invest in early childhood education now will save $6 in the future in lower costs for welfare, unemployment, and crime.

We must break the downward spiral of student dropouts and academic failure, by restructuring our school systems and investing in the hardest pressed schools of our communities. We must enhance the status of teaching, to keep good teachers in the classroom and attract new ones to the profession. We must provide more support for math and science instruction and for antidrug education. We must ensure that no students anywhere in the Nation are denied a college education because their families cannot afford it. Above all, we must stop investing in star wars and start investing in star schools.

In health care, it is an American disgrace that 37 million citizens have no insurance at all. It is an American tragedy that millions of severely disabled senior citizens are struggling to survive in their own homes or their children's homes, because decent home care and long-term nursing care are neither available nor affordable. It is an American scandal that we are unwilling to help three-quarters of the drug addicts who seek treatment and cannot get it—and that we refuse to face up to the epidemic of AIDS that is forcing the health care system to the brink of collapse.

We must deal with the challenge of economic conversion—an unparalleled opportunity to turn the talents of our most highly skilled citizens to serve the Nation's highest interests. Engineers and contractors who once built rockets and tanks can now build the bridges, airports, and rapid rail and telecommunications systems that will be the heart of our 21st-century economy. Scientists in no-longer-needed defense labs can craft solutions to the massive new needs to clean up the environment, and create safe—and nonnuclear—energy sources.

Economic conversion is more than adjustment assistance to displaced workers and disrupted communities. It is also the liberation of talent and treasure to revitalize our free enterprise system—and assure that America never becomes an economic colony of Germany or Japan.

Perhaps most of all, we must use the peace dividend to encourage opportunities for community service by all citizens, not just those who have wealth. Our goal is nothing less than to reinspire the youth of America to make service to others a part of our future. A quarter century ago, President Kennedy summoned all citizens to ask what they could do for their country. Americans responded by the millions, and together we built the strongest nation and the strongest economy in the world.

We lost sight of that goal in the medecade of the 1980's. But citizens across the country can help us find it again. Service to others—to the community and the Nation—is an idea as old as America, but it still symbolizes America at its best. It was the spirit of the first frontier and of the new frontier—and with our involvement and commitment, it will be the spirit of the next frontier as well.

Investing in America is sound social policy—and sound economics too. Missiles built to be launched across the frontiers of other nations can now be replaced with master teachers and microbiologists pushing back the frontiers of knowledge.

As the areas of old and dangerous confrontations with the Soviet Union continue to decline, we can open new and more hopeful confrontations with our own economic future. We need to regain the vigor and economic leadership of our own Nation, which did so much and spent so much to restore the freedom of so many others. We must begin to wage new battles—for our own people, for our own ideals and best ambitions. It is the right and only thing to do.

There is a famous saying in American history that "God looks after fools, drunkards, and the United States of America." Now, because of the peace dividend, we have a fresh chance—a chance to make up for the proliferation, waste, and neglect of the past decades.

The peace dividend is an unexpected nest egg for the Nation. We cannot afford to waste it, any more than a typical family would gamble away their life savings. The windfall from the collapse of communism should be invested wisely, in ways well-designed to meet the challenge of rebuilding our economy and country. Let us hope that we are equal to this unprecedented challenge and opportunity.

Mr. President, I ask unanimous consent that a table illustrating the calculation of the peace dividend and the text of the legislation may be printed in the RECORD.

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

S. 2667

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 National Needs Trust Fund Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) recent developments have significantly reduced tensions between the United States and the Soviet Union;

(2) as a result of the reduction of tensions, fewer funds need to be devoted by both countries to military expenditures;

(3) the reduction in military spending by the United States is a peace dividend that should be available to meet urgent domestic priorities; and

(4) funds attributable to the peace dividend should be placed in a National Needs Trust Fund and invested in areas most likely to strengthen the competitive position of the United States in the international economy.

SEC. 3. NATIONAL TRUST FUND.

(a) ESTABLISHMENT.—There is established within the Treasury of the United States a National Needs Trust Fund (hereafter in this Act referred to as the "Trust Fund"), consisting of such amounts as are appropriated to the Trust Fund under subsection (e).

(b) EXPENDITURE OF FUNDS.—(1) Amounts in the Trust Fund shall be available, as provided in appropriations Acts, to support any authorized Federal program in any or all of the following areas:

(A) early childhood education or development;

(B) elementary, secondary and higher education;

(C) job training, job retraining, and conversion of the economy from a Cold War economy to a peacetime economy;

(D) basic research and development;

(E) communications and transportation infrastructure;

(F) health care; and

(G) such other fundamental investments as Congress may determine are necessary to strengthen the economic and competitive position of the United States and to build a stronger future for the Nation.

(2)(A) Amounts in the Trust Fund shall be available only to supplement and not supplant Federal, State, and local expenditures in the areas described in paragraph (1).

(B) For the purposes of subparagraph (a), expenditures from the Trust Fund shall not be taken into consideration in determining Federal, State, and local expenditures in the areas described in paragraph (1).

(c) MANAGEMENT.—The Trust Fund shall be managed in the same manner as trust funds are managed under section 9602 of the Internal Revenue Code of 1986.

(d) EVALUATION AND REPORT.—In fiscal year 1991 and every 2 fiscal years thereafter, the Congressional Budget Office shall evaluate the impact of expenditures from the Trust Fund, and shall submit a report to the Congress on such evaluation.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $24,000,000,000 for fiscal year 1991, $32,000,000,000 for fiscal year 1992, $43,000,000,000 for fiscal year 1993, $52,000,000,000 for fiscal year 1994, and $60,000,000,000 for fiscal year 1995 to carry out the provisions of this Act.

DEFENSE SPENDING—Budget Authority

[Current year dollars in billions]

	Fiscal year—				
	1991	1992	1993	1994	1995
Administration request	307	313	318	322	326
House budget resolution	283	281	275	270	266
Peace dividend	24	32	43	52	60

By Mr. MITCHELL.

S. 2668. A bill to amend the Internal Revenue Code of 1986 to exempt certain transportation by ferry from the tax imposed on transportation by water; to the Committee on Finance.

EXEMPTION OF TAXATION ON CERTAIN FERRY TRANSPORTATION

Mr. MITCHELL. Mr. President, I am introducing legislation today to address a problem that has arisen with a provision in the Omnibus Reconciliation Act of 1989 that imposes a $3 departure tax on ship passengers. That provision originated in the Senate Commerce Committee and was intended to apply to passengers on cruise ships and gambling voyages. The language of the statute is vague, however, and the Internal Revenue Service is concluding in soon to be released rules, that the tax will apply to a much broader class of passenger ship traffic, including ferry services that operate between Maine and Nova Scotia.

The two ferry services carry trucks, cars and passengers in on an 11 hour trip between Portland and Bar Harbor, ME and Yarmouth, NS. Because the Portland vessel leaves in the evening for an 11 hour voyage that extends past midnight, it is most probably subject to the departure tax because it "extends over 1 or more nights". The Bar Harbor ferry leaves in the morning and arrives within the day but there is incidental gambling on board which brings it within statutory language that applies the departure tax in the case of vessels "transporting passengers engaged in gambling".

It is my understanding that the Commerce Committee did not intend to apply this new departure tax to these types of ferry operations. The tax was instead meant to apply to cruise ships and gambling ships. Nevertheless, the IRS will be giving a reasonable interpretation to the statutory language when it applies the tax to the ferry operations in Maine. A similar vessel operating between Seattle, WA and Victoria, will also be subject to the tax.

The legislation I am introducing today corrects this problem by exempting voyages on ferrys from the departure tax. The definition of "ferry" is picked up from 19 U.S.C. 58 the Customs user fee established in 1985 legislation. Paragraph C of that section exempts "ferrys" from the Customs fee and this legislation would do the same with respect to the international depature tax on ship passengers.

This legislation is not intended to give a special break to a certain class of passenger ships. It is instead intended to permit the IRS to carry out the objectives of the statute: to tax cruise ships and gambling ships, not ferry boats.

Mr. President, I ask unanimous consent that a copy of the introduced legislation be printed in the RECORD.

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

S. 2668

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

SECTION 1. TRANSPORTATION BY WATER.

(a) IN GENERAL.—Section 4472(1) of the Internal Revenue Code of 1986 (relating to definitions of covered voyage) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN FERRIES.—The term "covered voyage" shall not include a voyage on a ferry being used—

"(i) to provide transportation only between places that are no more than 300 miles apart, and

"(ii) to transport only—

"(I) passengers, or

"(II) vehicles, or railroad cars, which are being used, or have been used, in transporting passengers or goods.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 7504 of the Revenue Reconciliation Act of 1989.

By Mr. JOHNSTON (by request):

S. 2669. A bill to provide for increases in appropriation ceilings for land acquisition and development in certain units of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

INCREASING APPROPRIATION CEILINGS FOR CERTAIN UNITS OF THE NATIONAL PARK SYSTEM

● Mr. JOHNSTON. Mr. President, I am introducing today at the request of the Department of the Interior a bill to provide for increases in appropriation ceilings for land acquisition and development in certain units of the National Park System, and for other purposes.

I ask unanimous consent that the bill, a section-by-section analysis, executive communication which accompanied the proposal from the Department of the Interior be printed in the RECORD.

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

S. 2669

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

SECTION 1. ACQUISITION CEILING INCREASES.

The limitations on appropriations for the acquisition of lands and interests therein within units of the National Park System contained in the following Acts are amended as follows:

(a) Channel Islands National Park, California: section 208 of the Act of March 15, 1980 (94 Stat. 77) is amended by striking out "$30,100,000" and inserting in lieu thereof "$48,940,000";

(b) Chesapeake and Ohio Canal National Historical Park, Maryland and District of Columbia: section 8(b) of the Act of January 8, 1971 (84 Stat. 1980) is amended by

striking out "$28,400,000" and inserting in lieu thereof "$34,740,226"; and

(c) Cumberland Island National Seashore, Georgia: section 10 of the Act of October 23, 1972 (86 Stat. 1068) is amended by striking out "$28,500,000" and inserting in lieu thereof "$36,079,500".

SEC. 2. DEVELOPMENT CEILING INCREASES.

The limitations on appropriations for development of units of the National Park System contained in the following Acts are amended as follows:

(a) Cuyahoga Valley National Recreation Area, Ohio: section 6(b) of the Act of December 27, 1974 (88 Stat. 1788) is amended by striking out "$13,000,000" and inserting in lieu thereof "$22,223,000"; and

(b) Kalaupapa National Historical Park, Hawaii: section 110 of the Act of December 22, 1980 (94 Stat. 3324) is amended by striking out "$1,000,000" and inserting in lieu thereof "$4,190,000".

SECTION-BY-SECTION ANALYSIS

Section 1. Acquisition ceiling increases. Amends statutory limitations on appropriations for land acquisition in following National Park System areas:

(a) Channel Islands National Park, CA: from $30,100,000 to $48,940,000;

(b) Chesapeake and Ohio Canal National Historical Park, MD-DC: from $28,400,000 to $34,740,226; and

(c) Cumberland Island National Seashore, GA: from $28,500,000 to $36,079,500.

Section 2. Development ceiling increases. Amends statutory limitations on appropriations for development in following National Park System areas:

(a) Cuyahoga Valley National Recreation Area, OH: from $13,000,000 to $22,223,000; and

(b) Kalaupapa National Historical Park, HI: from $1,000,000 to $4,190,000.

DEPARTMENT OF THE INTERIOR,
Washington, DC, May 4, 1990.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To provide for increases in appropriation ceilings for land acquisition and development in certain units of the National Park System, and for other purposes."

We recommend that the draft bill be introduced, referred to the appropriate committee for consideration, and enacted.

The President's budget estimate for fiscal year 1991 for the National Park Service includes funds for land acquisition at three units of the National Park System and for development at two units of the System which exceed statutory limitations on appropriations for these purposes. Such limitations are contained in the enabling legislation for each unit. The enclosed draft bill would amend each enabling Act to increase the appropriation limitation by an amount sufficient to accommodate the budget estimate.

Acquisition ceiling increases are recommended for three areas. At Channel Islands National Park in California, an increase of $18,840,000 is needed to accommodate $4,340,000 already appropriated over the current ceiling (under authority of P.L. 95-42) and $14,500,000 in the fiscal year 1991 budget. At Chesapeake and Ohio National Historical Park, Maryland and the District of Columbia, an increase of $6,340,226 is needed to accommodate $7 million in the fiscal year 1991 budget ($659,774 remains unappropriated under the existing ceiling). At Cumberland Island National Seashore in Georgia, an increase of $7,579,500 is needed to accommodate $10 million in the fiscal year 1991 budget ($2,420,500 remains unappropriated under the existing ceiling).

Development ceiling increases are recommended for two areas. at Cuyahoga Valley National Recreation Area, Ohio, an increase of $9,223,000 is needed to accommodate $915,000 already appropriated over the current ceiling and $8,308,000 in the fiscal year 1991 budget for completion of two construction projects, the rehabilitation of utilities at the Kendall Unit ($1,508,000) and waste removal, filling, and restoration of the Krejci toxic waste site ($6,800,000).

At Kalaupapa National Historical Park, Hawaii, an increase of $3,190,000 is needed to accommodate $3,510,000 in the fiscal year 1991 budget ($320,000 remains unappropriated under the existing ceiling). This will complete replacement of the old water distribution lines, which are a health risk and a fire hazard.

The Office of Management and Budget has advised that enactment of this legislation would be in accord with the program of the President.

Sincerely,

CONSTANCE B. HARRIMAN,
Assistant Secretary.●

By Mr. REID:

S. 2670. A bill to amend the Trade Act of 1974 in order to require reciprocal responses to foreign acts, policies, and practices that deny national treatment to United States investment; to the Committee on Finance.

FAIR INVESTMENT ACT OF 1990

Mr. REID. Mr. President, today I am introducing the Fair Investment Act of 1990. This legislation is a companion bill to H.R. 3699, introduced by Representative TOM CAMPBELL on November 17, 1989. As of today, this legislation has 97 cosponsors in the House and strong bipartisan support.

The Fair Investment Act of 1990 is a direct result of the unfair business practices of Japan, Korea, and other countries.

We all know about the unfair trading practices of Japan and Korea. They slap obscenely high tariffs on American beef and cars so that our products cannot be sold in their countries. Then, they turn around and flood this country with cheap products and consistently undersell us. And they do this at the very time that the American taxpayer is paying for their military defense. We are subsidizing their national security so that they can take advantage of us economically.

The untold story is what the Japanese and Koreans are doing to us through unfair investment practices.

The Japanese are the most extreme in their unfairness. Consider what they think is fair investment in the United States.

The Japanese have penetrated just about every American industry. These incursions have had more than a few big ticket items. Sony Corp. recently paid $3.4 billion for Columbia Pictures. Rockefeller Center, the home of NBC and one of the most prestigious addresses in New York City, now has a Japanese landlord. Seventy percent of Honolulu is controlled by Japanese investors.

It's no wonder the Organization for Economic Cooperation, and Development calls our economy "the most open in the world." If other nations played by our rules, we would be in good shape; but they don't.

In contrast to our free and open markets, Japan is practically off-limits to American investors. For years, many United States manufacturers have tried to sell their goods in Japan—only to face repeated delays and setbacks.

The primary problem is that the Japanese distribution system has not accommodated American goods. For example, Japanese auto dealers often refuse to sell American-made cars. The alternative—establishing an entirely separate distribution system—is prohibitively expensive in most instances. Only a few American companies, such as the Amway Corp., have been able to establish their own, independent distribution systems to achieve market penetration.

Japan may be the worst offender, but it is hardly alone in this international double standard.

South Korea has flooded the American car market with Hundai's during the past several years. They like free trade when they come to America. They hate it on their own doorstep. And they have proven it in their investment policies, by outlawing foreign investment in 28 lucrative industries, including farming, publishing, and radio and television broadcasting.

This double standard is also practiced by European countries—who also rely on American military power to gain an economic advantage over us.

France will not grant most-favored-nation status to the United States or other countries outside the European Community. Approval to invest in France is sometimes even linked to specific requirements like maintaining a positive balance of trade. Recent cases have demonstrated that U.S. firms have had difficulty in obtaining such approval.

But it remains the Japanese who perpetuate the cruelest hoax on America—talking about free trade and open investment, while closing their borders in an economic move that mortally damages American workers and businesses.

Japan's economy is dominated by a shadow government of business leaders who make many of the decisions affecting that country's industrial, economic, and trade policies. This internal cartel of interlocking corporations is known as "keiretsu." Because of the keiretsu, economic power in Japan is extremely concentrated, even

to the detriment of the vast majority of Japanese citizens.

This tightly knit control group is closed to all newcomers—Japanese as well as foreign. Most Japanese investors cannot penetrate the powerful, secretive keiretsu.

These are the Japanese men who make it almost impossible for American retailers to establish a presence in Japan. They keep restrictive laws on the books in Japan, such as the legal right of small store owners to contest the opening of large department stores in their neighborhoods.

An American retailer can expect to wait 10 years before opening doors for customers. Ten years is a long time to receive any return on an investment. And that's only if the American investor gets past all the Government regulations and potential lawsuits from small store owners.

One of the most egregious examples of discrimination occurs against Americans who merely want to invest in the Japanese capital markets. While the Japanese continue to buy controlling interests in American companies and freely enter our corporate board rooms as voting members of corporate boards of directors, they prohibit Americans from doing the very same thing in their country. They will sell us the stock and take our money, but they won't allow us to vote as stockholders.

Mr. T. Boone Pickens' experiences as a shareholder of Koito Manufacturing Co. are a perfect example of this unfairness.

He is now the company's largest shareholder, but Mr. Pickens cannot even get a look at the company books and records. Representation on the Koito board is out of the question. The corporate insiders controlling Koito do not want a foreigner to have a look at how their system operates.

This outrageous behavior has even prompted ordinary Japanese citizens to write in support of Pickens' efforts.

Earlier this month, a small businessman from Japan testified anonymously before a House subcommittee on the anticompetitive behavior of keiretsu. Testifying from behind a cloak so the keiretsu could not retaliate against him, this brave Japanese businessman described how he is forced to accept arbitrary price cuts, hire particular individuals, and blacklist suppliers who act independently of the keiretsu.

The Fair Investment Act of 1990 would stop the double standard that allows Japan and other countries to take our money without giving anything in return.

This legislation would use the successful carrot and stick approach. If foreign countries practice fair investment and don't discriminate against us, we won't retaliate against them. But if they discriminate against our businessmen, then they shouldn't expect to get a free ride in this country.

It's a question of fairness, that's all. If they play fair, so will we.

To achieve this reciprocal relationship, the Fair Investment Act amends section 301(c) of the Trade Act of 1974 (19 U.S.C., section 2411(c)) to authorize reciprocal responses to foreign acts, policies, and practices that deny national treatment of U.S. investments. My bill merely seeks the creation of the "level playing field" that has been talked about but has never materialized.

The current administration, like its predecessor, views open investment and free trade as the two policy components to cure our foreign trade ills. Unfortunately, the pursuit of these policies has done nothing to improve our staggering trade deficit. I think I know why. Only our Government has a truly open and free trade policy.

The Japanese Government does everything in its power to preserve, protect, and defend Japanese industry. It's time we in the United States did the same thing for our economy.

We in Congress must pass legislation that encourages a reciprocal trade relationship. The policymakers in the administration must implement fair investment and fair trade policies. Failing to place Japan on the Super 301 list demonstrates they have not yet learned the wisdom of those kind of policies.

Mr. President, Congress is watching the implementation of our trade policies very carefully and it appears Americans keep getting shortchanged in these matters. Therefore, it is time to give our trade negotiators the proper tools. The legislation I am introducing today does just that. It puts a nation's money where its mouth is. If a nation really has free trade laws, then it will receive the benefit of America's open market. If it places restrictions on foreign investment on our economy, then America will place the same restrictions on investments here. This is a reasonable response to a situation that has grown out of control.

By Mr. CRANSTON:

S. 2671. A bill for the relief of Restituta Cayubit Brick; to the Committee on the Judiciary.

RELIEF OF RESTITUTA CAYUBIT BRICK

Mr. CRANSTON. Mr. President, I am today introducing a private relief bill on behalf of Mrs. Restituta C. Brick, a citizen of the Philippines, the widow of a U.S. serviceman, John P. Brick, and the mother of their 3-year-old daughter born and raised in the United States.

In November 1986, Mrs. Brick became a widow when her husband sustained fatal head injuries due to a vehicular accident. They had only been married 3 weeks and were planning to relocate in San Diego, CA, in the following month.

Serviceman and Mrs. Brick met in the Philippines in October 1984 while Serviceman Brick was stationed aboard the U.S.S. *Schenectady* at Subic Bay. Serviceman Brick filed the appropriate marriage forms with the United States Navy and with the Philippine Government in May 1986, but they had to wait until October 17, 1986, for the ceremony due to delays on the part of both the United States and the Philippine Government.

In expectation of relocating to San Diego in December 1986, Serviceman Brick filed the necessary forms and affidavit of support to secure his wife's U.S. permanent residency on October 27, 1986. Unfortunately, the petition was not approved prior to his untimely death. After his death, Mrs. Brick came to San Diego for her husband's funeral and to give birth to their only child.

Mrs. Brick has resided with her inlaws in Escondido, CA, since her arrival. They have welcomed Mrs. Brick into their family as an adopted daughter and are extremely hopeful that she and their granddaughter, Katherine, will be able to remain in the United States permanently.

As the spouse of a U.S. citizen, Mrs. Brick would not have had difficulty obtaining a permanent resident visa had her husband survived. It is only due to his unexpected death that she has been denied permanent residency. In fact, because Mrs. Brick married a member of the U.S. Navy, she has already successfully completed a background check by the U.S. Government. Mrs. Brick's only alternative to private legislation is to wait 18 years for her daughter, a U.S. citizen, to be old enough to file a petition on her behalf.

Serviceman and Mrs. Brick had always planned to raise and educate their children in the United States. Understandably, Mrs. Brick hopes to remain in the United States to fulfill the wishes of her husband and raise their daughter, Katherine, here. I believe that this is a clear and compelling case for which private legislation is necessary. Mrs. Brick has no other viable alternative and she has arrived at this situation through no fault of her own. I am hopeful that my colleagues will support this bill.

By Mr. THURMOND:

S. 2672. A bill to establish a United States Marshals Foundation; to the Committee on the Judiciary.

UNITED STATES MARSHALS FOUNDATION ESTABLISHMENT ACT

● Mr. THURMOND. Mr. President, I am pleased to introduce today legislation which would establish a United States Marshals Foundation.

The U.S. Marshals Service last year celebrated its bicentennial anniversary. Created by the First Congress in the Judiciary Act of 1789—the U.S. marshals and the Federal judicial system were established in the same legislation. George Washington appointed the first 13 marshals, and for the next 150 years the marshals was the only Federal agency authorized to make arrests and enforce Federal law.

Though best known as the frontier lawmen, U.S. marshals were the first Secret Service men and even took the population census every 10 years until 1870. Because they perform general purpose law enforcement duties, marshals are often confused with the CIA, FBI, the county sheriff, and other law enforcement agencies.

U.S. marshals, appointed by the President, are under the jurisdiction of the Justice Department. Last year, the 2,694 marshals (including 94 full marshals and 2,600 sworn deputies) arrested 14,000 Federal fugitives—more than all other Federal law enforcement agencies combined. They protected 505 judicial facilities and 1,611 judges and magistrates. Their responsibilities include not only ensuring security and proper decorum in the courtroom, but also providing personal protection for judges, U.S. attorneys, jurors, and witnesses while away from the court facilities when warranted. Their court security officers detected 55,970 weapons at courthouse checkpoints and they administered the Witness Security Program with its 5,500 protected witnesses and 6,000 witness family members. The Marshals' National Prisoner Transportation Network transported 92,000 defendants to 333,987, court appearances, and last year the marshals managed almost $1 billion in property seized from alleged lawbreakers in the National Asset Seizure and Forfeiture Program.

I feel it is only appropriate to elevate and strengthen public knowledge of law enforcement in general, and the U.S. Marshals Service in particular by introducing this legislation to establish a United States Marshals Foundation. The legislation is modeled after similar legislation which established the National Fish and Wildlife Foundation and the National Park Foundation. Governed by a board of directors, the Foundation would be a charitable and nonprofit corporation and would not be an agency or establishment of the United States. The directors—appointed with the advice and consent of the Director of the U.S. Marshals Service—would serve for terms of 4 years, and the legislation requires that they be knowledgeable or experienced in law enforcement matters.

I urge my colleagues to join with me in supporting this worthwhile legislation.●

By Mr. McCLURE:

S. 2674. A bill to provide for the reestablishment of the gray wolf in Yellowstone National Park and the Central Idaho Wilderness Area; to the Committee on Energy and Natural Resources.

NORTHERN ROCKY MOUNTAIN GRAY WOLF RESTORATION ACT

Mr. McCLURE. Mr. President, today I am introducing a bill that will bring about the return of the gray wolf to Yellowstone National Park and to the Wilderness of central Idaho.

My bill, the Rocky Mountain Gray Wolf Restoration Act of 1990, is the result of almost 3 years of attempting to bring together the opposing sides in an issue that is as polarized as any I have seen in my 24 years in the Congress.

At the center of the bill is a plan that will guarantee the return of the wolf to some of his ancestral haunts within the next few years. It also provides for the protection of the interests of those who live and work in the three states directly affected and who must be able to depend on access and use of public lands to make their living and those who have private lands adjacent to public lands.

The Northern Rockies Gray Wolf Reintroduction and Management Act provides for the transplanting and maintaining a minimum of three mating pairs of gray wolves into each of two core zones. One of the zones is 2.2-million-acre Yellowstone National Park. The second zone is an area of roughly 2 million acres located in central Idaho within the boundaries of the Selway-Bitteroot and River of No Return Wilderness areas.

Within those two core zones, as well as within portions of northwestern Montana where natural recovery is already well underway, wolves will continue to be listed as endangered. Transplanted wolves as well as those which might eventually make their own way into the zones will be fully protected as long as they remain within the core zone boundaries.

Core zone translocations under provisions in the bill in conjunction with the natural process underway in the Glacier Park area will guarantee safe sanctuary and provide an opportunity to maintain adequate gene pools as wolf populations increase and disperse throughout the northern Rockies.

The process in the solution I offer on this issue has not been developed in a vacuum. In fact, experts like Dr. David Mech—probably the authority on wolves in North America—and Dr. Steve Fritts, wolf coordinator for the U.S. Fish and Wildlife Service have both examined my approach. While they agree there might be better ways to get the job done from a purely biological standpoint, they also acknowledge that the proposed program can work.

Along with providing for translocating and maintaining minimum numbers of wolves within the core zones, the bill provides for the immediate delisting of wolves outside the core zones. Such action, while viewed with suspicion and opposed with philosophical arguments by some environmental organizations is the necessary ingredient to make it workable in the three States directly affected.

When Congress passed the Endangered Species Act, it envisioned legislation to make certain that species would not become extinct. The key to success of the law was finding a way to conserve and protect species truly in danger of becoming extinct. In fact, the act has become a vehicle by which some organizations and individuals seek to halt all activities on our public lands which they happen to oppose.

Mr. President, I would submit to you that such use of the Endangered Species Act was not envisioned nor would it have been condoned by a majority of those who originally crafted the law.

As the act applies to the gray wolf, there are three major points I would like to make. First, and perhaps most important, the wolf is not endangered as a species. There are thousands alive and well in North America including an estimated 1,200 to 1,500 in Minnesota, Wisconsin, and Michigan.

Second, transplanted wolves would not be the same wolf that probably roamed in and around the park historically. That particular subspecies is already extinct. Neither by reintroducing—or by allowing natural colonization to take place—would we be protecting and conserving that particular animal.

While that point may not seem important to some, I believe arguments about the return of the wolf to the Northern Rockies as an endangered species should recognize the fact before considering what is or is not the proper legal way to get the job done.

And last but not least, this bill would speed up actual recovery of wolf populations in precisely the same geographic areas recommended in the wolf recovery plan that has been approved by the Department of the Interior.

Arguments that the areas need to be larger are unfounded. Yesterday, the National Park Service released to Congress the results of its studies about how reintroduction might affect Yellowstone Park.

The official recovery plan calls for a target of 10 packs—approximately 100 animals—within each of the three areas to be recovered before delisting takes place. In the Yellowstone area, that plan concluded that an area almost three times the size of the park would be necessary to support such a number.

The study released yesterday, after 2 years of intensive examination of both new and already existing information, concludes that the park proper could likely sustain a population of up to 13 packs.

In fact, wolves are not going to know or care where recovery plan lines or my core zone lines are drawn. They will roam wherever necessary to find adequate food and habitat. In my opinion, that means that within a short time following translocation of wolves from Canada or Alaska, some of them are going to take off for a look at the rest of the world.

As long as wolves straying outside the core zones do not become a threat to domestic livestock or pets, do not—in the opinion of professional wildlife managers—threaten the survival of other wildlife species, or otherwise wind up in unacceptable conflict, they will remain free to live wherever they please.

Research indicates that wolf and ungulate populations are generally inversely proportional and cyclical over relatively long periods of time. My bill provides for professional management of that critical balancing act when necessary by restoring management authority over the wolf outside the boundaries of the core zones to the appropriate State fish and game departments in the three States involved.

Despite most of the rhetoric, reintroduction of wolves is not opposed just by the livestock industry. Hunting organizations are very concerned about what might happen to key elk herds we have worked for years to develop, and wolves seem to eat a lot of elk—especially calves—when they are available.

The Park Service study says that one wolf will eat 7 to 28 ungulates each year. That means that 100 wolves in Yellowstone Park or central Idaho could be expected to consume up to 3,000 animals annually.

In fact, the study shows that elk populations in the Park can be expected to decline by 10 to 25 percent; bison populations by 5 to 20 percent; and mule deer populations by 10 to 30 percent. Those numbers are not insignificant. For example, based on current populations, a recovered population of wolves in Yellowstone would kill approximately 3,000 elk per year.

Mr. President, as I stated near the beginning of my remarks, this issue has become about as polarized as any I can remember since coming to Washington. Some groups want to use the wolf as a surrogate for other agendas. Others have used it to raise a lot of money from citizens of this country truly concerned about the place of the wolf in our environment. Still others have used it for political purposes. What a shame that the laws of this Nation can be subverted for purposes other than the reason the law was originally written.

On either end of the issue spectrum are the hard liners, those who will use the wolf as a surrogate and those whose pioneering ancestors—with a lot of help and support from the Federal Government—finally managed, in the early part of this century, to virtually wipe out this animal they viewed as a threat to their survival.

Mr. President, we must not allow arguments over what is past to force us into decisions today which may, in the future, be found to be just as misguided as how some view those earlier decisions.

Like it or not, our world has changed and there is no turning back the clock of history as much as we might wish it to be so. Those whose radical positions place them at one end of the spectrum or the other on this issue should not be allowed to hamper the resolution of an issue that is important to all the American people.

The gray wolf has been on the endangered species list since 1973, the year the Endangered Species Act was passed. The single exception to that classification is in the State of Minnesota where they are classified as threatened.

The original recovery plan for the gray wolf in the Northern Rockies was written in 1974. The team responsible for the plan was asked to review and revise the plan in 1983. That task was completed in 1987.

The recovery team felt that recovery by natural dispersal was not practical for Yellowstone within the foreseeable future. Instead, they recommended a reintroduction program.

In central Idaho, they recommended waiting for 5 years to see if natural recolonization would begin by means of dispersing animals from Canada and northwestern Montana.

As I have already noted, wolves from Canada or Alaska that might be available for reintroduction are not the same subspecies that would have historically been found in the Yellowstone area. According to experts, that wolf—commonly referred to as the "buffalo wolf"—has been extinct since at least the late 1920's. The recovery plan itself does not recognize any gray wolf subspecies. In other words, as far as the official recovery plan is concerned, a wolf is a wolf and as far as the Government is concerned it doesn't matter that the species of concern longer exists.

The three States involved are owned largely by the Federal Government. Thirty percent of Montana, 50 percent of Wyoming and 64 percent of Idaho is federally owned. Access to and use of the public lands and resources on them has a great deal to do with the economy of our sparsely populated States. When the economy suffers, so do our communities and our people.

The working men and women of our States have no alternative but to rely on continued access to and the use of grass, water, logs and minerals from public lands to support their families. Those working people have mortgages to pay just like you and I; they have bills that are due each month; and they want to be able to feed and clothe their chidlren just as you and I do.

Reintroducing the wolf into their back yards presents a very real threat to them and they will resist any and all such efforts unless their own concerns are considered.

Mr. President, it is relatively easy for you and me and other Government workers to support actions such as the reintroduction mandated by my bill because our income and ability to make a living is not threatened. If recovery of the wolf is to be successful, we must recognize the legitimate concerns of the hundreds of honest, hard-working citizens who will be directly affected by our actions here in Congress. In my opinion, we have a responsibility to protect their right to make an honest living and to live the lifestyle they have chosen.

The effects of the reintroduction of wolves into the two areas proposed in my bill will be felt across a spectrum of land ownerships including a national park, wilderness areas, national forest lands, and both State and private lands.

Mr. President, I believe this bill provides exactly what the Congress had hoped for when it passed the Endangered Species Act. It provides for the reintroduction, population maintenance and permanent protection for wolves in large portions of the three geographically distinct areas recommended by the wolf recovery team.

It also provides authority for State management and control of problem wolves outside the core zone sanctuaries.

And finally, it provides a means of protecting the interests of the people most directly affected by any decision we make.

I hope my colleagues will join me in this attempt to resolve this important issue. By doing, so, the American people may soon be able to once again hear the wailing howl of the wolf in the Northern Rockies and in Yellowstone.

Mr. President, I ask unanimous consent that a copy 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. 2674

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 Northern Rocky Mountain Gray Wolf Restoration Act of 1990.

SEC. 2. Within two years from the date of enactment of this Act, the Secretary of the Interior is directed to introduce three Alpha pairs of gray wolves each into Yellowstone National Park and into the Idaho portion of the Selway-Bitteroot and River of No Return Wilderness areas within the areas designated as "Core Zone" on the map entitled "Wolf Core Zone—Idaho, Montana, Wyoming" dated May 17, 1990. Prior to introduction of such wolves, the Secretary shall consult with the Governors of Idaho, Montana, and Wyoming and the Secretary of Agriculture.

SEC. 3. Upon introduction, natural dispersal of the wolves shall be permitted and no effort may be taken to restrict such dispersal: *Provided,* That, the Secretary shall immediately replace any wolves that do not remain within the core zones. Each wolf introduced pursuant to this Act shall be equipped with a radio collar for monitoring purposes. At such time as the Secretary determines that three pair have established themselves within the core zone in Idaho for a period of three years, the Secretary shall restrict the boundaries of the core zone to coincide with the established territories.

SEC. 4. The Secretary is authorized and directed to permit the natural re-colonization of gray wolves in the area designated as a "Natural Recovery Area" on the map entitled "Natural Recovery Area-Montana" dated May 22, 1990.

SEC. 5. Effective on the date of enactment, the gray wolf is hereby declared and determined not to be a threatened or endangered species within the meaning of the Endangered Species Act (P.L. 93-205, 87 Stat. 884, as amended) outside the areas designated as "Core Zone" on the map referred to in section 2 of this Act and outside the area designated as a "Natural Recovery Area" on the map referred to in section 4 of this Act within the States of Idaho, Montana, and Wyoming and may not be so determined in the future other than by specific designation as such in an Act of Congress.

By Mr. BRADLEY (for himself and Mrs. KASSEBAUM):

S.J. Res. 323. Joint resolution designating November 11 through 17, 1990, as "Geography Awareness Week"; to the Committee on the Judiciary.

GEOGRAPHY AWARENESS WEEK

● Mr. BRADLEY. Mr. President, I rise today with my distinguished colleague from Kansas [Mrs. KASSEBAUM] to introduce a resolution to declare the week of November 11 to November 17, 1990, as "Geography Awareness Week."

Mr. President, 3 years ago, I introduced the first Geography Awareness Week resolution, because I saw alarming reports of geographic illiteracy in our Nation. Surveys found that our Nation's students had at best a distorted understanding of our world and at worst were totally ignorant of the most basic geography. A survey by the Asbury Park Press in one part of New Jersey found that on the average, 12th graders could identify only 41 percent of the States. In Dallas, 25 percent of the high school students could not name Mexico as the country that bordered the United States to the south. In Boston, 39 percent of the surveyed students could not name the six New England States.

Mr. President, since Congress first took note of the problem by establishing Geography Awareness Week, we have started to confront the problem of geographic illiteracy. Many schools have reintroduced geography as part of their curriculum. But much needs to be done to revitalize and expand the role of geography in the public consciousness.

Three years ago, I sponsored the first statewide geography bee in New Jersey. Over 600 eighth graders from all over the State competed. Robin Cadwallender, a 13-year-old eighth grader from Hopatcong, NJ, won that competition. Now, we have a national geography bee (modeled after that first New Jersey bee) which is in its second year. All 50 states are involved in the competition, run much like the national spelling bee.

In addition, for the past 3 years, I have challenged elementary school classes to develop outstanding geography class projects. The response has been phenomenal. In fact—last year, 14,000 students and 450 teachers from 200 schools in New Jersey participated in the program. I gave one school an outstanding achievement award, and 10 schools special recognition awards for their efforts. I am proud of all the students and teachers who have participated over the past 3 years.

I believe that national attention must be focused on the importance of world geography in preparing our young people for the future of an increasingly interdependent and interconnected world. Knowledge of geography offers necessary perspectives and information for understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world.

Yet even with this critical need to know, a majority of American students today still receive no significant exposure to geography in school. This is illustrated by a recent Gallup poll which ranked Americans in the bottom third in an international test of geographic knowledge, with those aged 18 to 24 ranking last. Less than half of these young people could find Central America on a map; only one in three could locate Vietnam; and three-quarters could not find the Persian Gulf. Clearly, continued ignorance, such as this, places the United States at a distinct disadvantage in matters of business, politics, and the environment.

That's why I am introducing this resolution—to focus national attention on the essential role that knowledge of world geography plays in our lives. It is my hope that this will be just one step in a revitalization of the study of geography. All of our citizens should have access to the sort of education which will help them appreciate both the great beauty and diversity of this Nation and its place in the world.●

● Mrs. KASSEBAUM. Mr. President, once again I am pleased to join Senator BRADLEY in introducing a resolution designating the week of November 11 through 17, 1990, as "National Geography Awareness Week." I cannot stress enough how important the knowledge of geography is in a world of constant change and emerging democracy. One cannot appreciate the transformations taking place in Eastern Europe and South America without the knowledge of geography.

The commemoration of Geography Awareness Week has provided the United States with an opportunity to concentrate on the national improvement of geographic literacy. For three consecutive years public officials, schools, businesses and communities have participated in special events and activities promoting the nation's geography awareness.

Currently, American students receive limited exposure to geography in their curricula. According to the results of the National Assessment of Education Progress in geography, the Nation's high school seniors responded correctly to only 57 percent of the geography test items. Only 33 percent of the students tested could correctly identify the order of the oceans, moving West to East from Africa. Clearly, unless renewed emphasis is placed on geography, the United States will remain at a distinct disadvantage in international business and politics.

I believe National Geography Awareness Week will once again strengthen public awareness of the importance of improving geographic literacy in our educational systems and our communities. I urge our colleagues to join Senator BRADLEY and me in supporting this resolution.●

By Mr. DOLE (for himself, Mr. INOUYE, Mr. ADAMS, Mr. CHAFEE, Mr. DIXON, Mr. GLENN, Mr. HEFLIN, Mr. HOLLINGS, Mr. LAUTENBERG, Mr. MCCLURE, Mr. MOYNIHAN, Mr. PELL, Mr. ROTH, Mr. SANFORD, Mr. THURMOND, and Mr. WARNER):

S.J. Res. 324. Joint resolution to designate June 3 through 9, 1990, as "Week of the National Observance of the 50th Anniversary of World War II"; to the Committee on the Judiciary.

WEEK OF THE NATIONAL OBSERVANCE OF THE 50TH ANNIVERSARY OF WORLD WAR II

Mr. DOLE. Mr. President, today, on behalf of myself, Senator INOUYE and my distinguished cosponsors, I offer a joint resolution to commemorate the week of June 3 through June 9, 1990, as the National Observance of the 50th Anniversary of World War II.

It seems to me, that with the rapid spread of democracy and freedom throughout Eastern Europe, it is especially fitting that we now honor those Americans who fought and sacrificed during World War II to lay the foundations of this new freedom unfolding in Europe.

There is no doubt that America's contribution during World War II was decisive in the defeat of the violent tyrannies that had ignited the most destructive war in history. It was the bravery, productivity, and genius of the American people that made this victory possible.

The U.S. contribution began long before Pearl Harbor: American ships ensured that England kept its sea lanes open; American intelligence experts were breaking the codes that would be a key to our future naval victories in the Pacific and the Atlantic; and the U.S. Army was perfecting the tactics that would allow our forces to take North Africa, Italy, and France. By 1940, there were Americans actually flying combat missions as volunteers over England and China.

With America's full entry into the war, the American people were galvanized into action that would change the world. American valor on the battlefield was supported by the efforts of the American farmer and worker, as we became the most productive nation in history. Billions of tons of ships, aircraft, and vehicles were produced at unprecedented rates. And, as the arsenal of democracy became an awesome reality to our enemies, American farmers produced enough food to feed the world. It's also important to remember that our farmers saved both our allies and our defeated enemies from starvation after the war.

Our Nation's productivity was exceeded only by its creative genius. American science and technology gave us the ability to transform imagination into reality, with an engineer's exacting precision. The computer would increase our capabilities in all fields. New medical techniques and pharmaceuticals would provide new possibilities in health care. New materials and processes would forever change our manufacturing and construction techniques.

Moreover, the period between 1940 and 1945 was a time of great transition for our Nation. Internationally, we became a superpower. Domestically, we experienced great social changes, as vast population shifts changed the demographics of our Nation, and women took on new challenges in the workplace which would redefine their roles in society.

The week of June 3 to June 9, is especially significant to our Nation. It was during this first week in June 1942, at Midway, that our naval forces dealt a devastating blow to the Japanese navy, a victory so complete, that it never recovered. It was in this week in 1944, that Americans liberated Rome from the Fascists and stormed the beaches of Normandy, to liberate Europe from the Nazis.

Mr. President, I believe we need to honor the men and women of this Nation who gave their all so that others could live in freedom. I, therefore, send this joint resolution to the desk to authorize the President of the United States to issue a proclamation establishing the week of June 3 to June 9, 1990, as the Week of the National Observance of the 50th Anniversary of World War II.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 324

Whereas the brave men and women of the United States of America made tremendous sacrifices during World War II to save the world from tyranny and aggression;

Whereas the winds of freedom and democracy sweeping the globe today spring from the principles for which over 400,000 Americans gave their lives in World War II;

Whereas World War II and the events that led up to that war must be understood in order that we may better understand our own times, and more fully appreciate the reasons why eternal vigilance against any form of tyranny is so important;

Whereas the World War II era, as reflected in its family life, industry, and entertainment, was a unique period in American history, and epitomized our Nation's philosophy of hard work, courage, and tenacity in the face of adversity;

Whereas, between 1990 and 1995, over 9,000,000 American veterans of World War II will hold reunions and conferences and otherwise commemorate the 50th anniversaries of various events relating to World War II;

Whereas June 4, 1990, marks the anniversary of the Battle of Midway and June 6, 1990, marks the anniversary of the D-Day battle: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 3, through June 9, 1990, is designated as "National World War II Observance Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate activities and ceremonies.

ADDITIONAL COSPONSORS

S. 324

At the request of Mr. WIRTH, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 324, a bill to establish a national energy policy to reduce global warming, and for other purposes.

S. 345

At the request of Mr. DODD, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 345, a bill to grant employees family and temporary medical leave under certain circumstances, and for other purposes.

S. 435

At the request of Mr. REID, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 435, a bill to amend section 118 of the Internal Revenue Code to provide for certain exeptions from certain rules determining contributions in aid of construction.

S. 682

At the request of Mr. SIMON, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 682, a bill to amend chapter 33 of title 18, United States Code, to prohibit the unauthorized use of the names "Visiting Nurse Association," "Visiting Nurse Service," "VNA," "VNS," or "VNAA," or the unauthorized use of the name or insignia for the Visiting Nurse Association of America.

S. 980

At the request of Mr. MITCHELL, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 980, a bill to amend the Internal Revenue Code of 1986 to improve the effectiveness of the low-income housing credit.

S. 1140

At the request of Mr. MITCHELL, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1140, a bill to to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 1579

At the request of Mr. FOWLER, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1579, a bill to amend the National Historic Preservation Act, the Historic Sites Act, the Archaeological Resources Protection Act, and the Abandoned Shipwreck Act, and certain related acts to strengthen the preservation of our historic heritage and resources, and for other purposes.

S. 1690

At the request of Mr. DODD, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1690, a bill to establish programs to improve foreign language instruction, and for other purposes.

S. 1890

At the request of Mr. THURMOND, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 1890, a bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in conection with civil service retirement, and for other purposes.

S. 1911

At the request of Mr. DODD, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1911, a bill to provide assistance in the development of new or improved programs to help younger individuals through grants to the States for community planning, services, and training; to establish within the Department of Health and Human Services an operating agency to be designated as the Administration on Children, Youth, and Families; to provide for a White House Conference on Young Americans; and for other purposes.

S. 1930

At the request of Mr. GORE, the name of the Senator from Hawaii [Mr. INOUYE], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1930, a bill to amend the Higher Education Act of 1965 to require colleges and universities to establish and disclose campus security policies and to inform students and employees of campus crime statistics, and for other purposes.

S. 2179

At the request of Mr. SIMON, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2179, a bill to maintain funding for State and local law enforcement programs in the war against drugs and crime.

S. 2186

At the request of Mr. MCCONNELL, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2186, a bill to repeal the provisions of the Revenue Reconciliation Act of 1989 which require the withholding of income tax from wages paid for agricultural labor.

S. 2189

At the request of Mr. PRYOR, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2189, a bill to establish a grant program to provide health insurance information, counseling, and assistance to individuals eligible to receive benefits under title XVIII of the Social Security Act, and for other purposes.

S. 2250

At the request of Mr. DECONCINI, the name of the Senator from Virginia [Mr. WARNER], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 2250, a bill to amend title 5, United States Code, with respect to setting rates of basic pay for law enforcement officers, and for other purposes.

S. 2356

At the request of Mr. SYMMS, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2356, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 2385

At the request of Mr. DOMENICI, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2385, a bill to establish the National Forest Foundation.

S. 2434

At the request of Mr. D'AMATO, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 2434, a bill to permit the implementation of the Department of Transportation antidrug program rule for recipients of Federal mass transit assistance.

S. 2447

At the request of Mr. JOHNSTON, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 2447, a bill to establish the Bayou Cocodrie National Wildlife Refuge.

S. 2598

At the request of Mr. GRAMM, the name of the Senator from Texas [Mr. BENTSEN] added as a cosponsor of S. 2598, to amend title 38, United States Code, to authorize the Secretary of Veteran Affairs to make grants (in conjunction with the Secretary of Defense) for the establishment of research centers at qualifying medical schools to carry out medical research in areas of interest to the Department of Veterans Affairs.

S. 2611

At the request of Mr. HARKIN, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2611, a bill to authorize assistance to the Washington Center for Internships and Academic Seminars.

SENATE JOINT RESOLUTION 271

At the request of Mr. MCCONNELL, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 271, a joint resolution to designate July 10, 1990 as "Wyoming Centennial Day."

SENATE JOINT RESOLUTION 274

At the request of Mr. LAUTENBERG, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 274, a joint resolution to designate the week beginning June 10, 1990 as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 282

At the request of Mr. WILSON, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Hawaii [Mr. INOUYE], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of Senate Joint Resolution 282, a joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child."

SENATE JOINT RESOLUTION 283

At the request of Mr. CRANSTON, the names of the Senator from Illinois [Mr. DIXON], the Senator from North Dakota [Mr. CONRAD], the Senator from Alabama [Mr. SHELBY], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Joint Resolution 283, a joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park.

SENATE JOINT RESOLUTION 289

At the request of Mr. SIMON, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Utah [Mr. HATCH], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Joint Resolution 289, a joint resolution to designate October 1990 as "Polish American Heritage Month."

SENATE JOINT RESOLUTION 299

At the request of Mr. JOHNSTON, the names of the Senator from Illinois [Mr. SIMON], the Senator from Maine [Mr. COHEN], the Senator from Montana [Mr. BURNS], the Senator from Idaho [Mr. MCCLURE], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 299, a joint resolution to designate the period October 1, 1990, through October 1, 1991, as the "Year of the Wetlands."

SENATE JOINT RESOLUTION 301

At the request of Mr. PELL, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Iowa [Mr. GRASSLEY], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Ohio [Mr. GLENN], the Senator from Nevada [Mr. REID], the Senator from Kansas [Mr. DOLE], the Senator from West Virginia [Mr. BYRD], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nevada [Mr. BRYAN], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 301, a joint resolution designating October 1990 as "National Breast Cancer Awareness Month."

SENATE JOINT RESOLUTION 304

At the request of Mr. SHELBY, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Illinois [Mr. DIXON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from California [Mr. WILSON], the Senator from Tennessee [Mr. SASSER], the Senator from Vermont [Mr. JEFFORDS], the Senator from Texas [Mr. BENTSEN], the Senator from Washington [Mr. ADAMS], the Senator from California [Mr. CRANSTON], the Senator from Hawaii [Mr. AKAKA], the Senator from Louisiana [Mr. BREAUX], the Senator from Nebraska [Mr. EXON], the Senator from

Kentucky [Mr. FORD], the Senator from Ohio [Mr. GLENN], the Senator from Alabama [Mr. HEFLIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Nebraska [Mr. KERREY], the Senator from Colorado [Mr. WIRTH], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Mississippi [Mr. LOTT], the Senator from Missouri [Mr. BOND], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Missouri [Mr. DANFORTH], the Senator from Washington [Mr. GORTON], the Senator from Florida [Mr. MACK], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 304, a joint resolution to designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day."

SENATE JOINT RESOLUTION 308

At the request of Mrs. KASSEBAUM, the names of the Senator from Virginia [Mr. WARNER], the Senator from Connecticut [Mr. DODD], the Senator from Illinois [Mr. DIXON], the Senator from Idaho [Mr. MCCLURE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Dakota [Mr. PRESSLER], the Senator from Vermont [Mr. JEFFORDS], the Senator from Washington [Mr. ADAMS], the Senator from New York [Mr. MOYNIHAN], the Senator from Indiana [Mr. LUGAR], the Senator from California [Mr. WILSON], the Senator from Alaska [Mr. STEVENS], the Senator from Alabama [Mr. SHELBY], the Senator from Indiana [Mr. COATS], the Senator from North Dakota [Mr. BURDICK], the Senator from North Carolina [Mr. HELMS], the Senator from Alabama [Mr. HEFLIN], the Senator from California [Mr. CRANSTON], the Senator from Tennessee [Mr. GORE], the Senator from New Jersey [Mr. BRADLEY], the Senator from Tennessee [Mr. SASSER], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 308, a joint resolution to designate the month of June 1990, as "National Huntington's Disease Awareness Month."

SENATE JOINT RESOLUTION 311

At the request of Mr. INOUYE, the names of the Senator from Tennessee [Mr. SASSER], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 311, a joint resolution to designate the month of November 1990 as "National American Indian and Alaska Native Heritage Month."

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. KENNEDY, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of Congress that Greyhound Lines, Inc., and the Amalgamated Transit Union should pursue meaningful negotiations under the auspices of the Federal Mediation and Conciliation Service and the Secretary of Labor to resolve their dispute and restore vital transportation services to the American communities.

AMENDMENTS SUBMITTED

CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

McCONNELL AMENDMENT NO. 1674

(Ordered to lie on the table.)

Mr. MCCONNELL (for himself, Mr. KERRY, Mr. BRYAN, Mr. BURNS, Mr. SANFORD, Mr. REID, and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes, as follows:

At the appropriate place, insert the following:

(a) NEGOTIATIONS.—(1) The Attorney General shall enter into negotiations with the appropriate law enforcement and judicial agencies and any other officials of any foreign country with jurisdiction over companies who manufacture, market, sell or purchase certain precursor and/or essential chemicals used in the production of illicit narcotics. The priority of negotiations should be determined based on an assessment by the Attorney General which countries have jurisdiction over companies that may be knowingly or unknowingly supplying chemicals for the illicit manufacture of controlled substances.

(2) The purposes of the negotiations shall be to (a) establish a list of precursor and essential chemicals contributing to the illicit manufacture of controlled substances, as defined in the section 102 Controlled Substances Act (21 U.S.C. 802); (b) reach one or more international agreements on a method for maintaining records of transactions of these listed chemicals; (c) establish a procedure by which such records may be made available to (and kept confidential as necessary by) United States law enforcement authorities for the exclusive purpose of conducting an investigation relative to precursor chemicals, essential chemicals and/or controlled substances contributing to the manufacture of illicit narcotics; (d) encourage chemical source countries to enact national chemical control legislation which would (i) impose specific record keeping and reporting requirements for domestic transactions involving listed chemicals; (ii) establish a system of permits or declarations for imports and exports of listed chemicals; and (iii) authorize government officials to seize or suspend shipments of listed chemicals based on evidence that they may be destined for the illicit manufacture of controlled substances.

(b) REPORTS.—Not later than one year after the date of enactment of this Act, the Attorney General shall submit an interim report to the Judiciary Committee and the Foreign Relations Committee of the Senate on progress in the negotiations. Not later than eighteen months from date of enactment, the Attorney General shall submit a final report to the aforementioned Senate Committees on the result of negotiations identifying countries with which agreements have not been reached and which have jurisdiction over companies believed to be engaged in the manufacture, marketing, sale or purchase of precursor and/or essential chemicals used in illicit manufacture of controlled substances.

(c) PENALTIES.—After consulting with the Attorney General and the Director of National Drug Control Policy, the President shall impose penalties or sanctions including temporarily or permanently prohibiting any corporation, partnership, individual or business association (i) refusing to maintain records for the purpose of monitoring and regulating transactions of listed precursor chemicals, or (ii) refusing to make such records available to United States law enforcement authorities for investigative purposes from engaging in any or all transactions within the commerce of the United States.

(d) DEFINITIONS.—A record under subsection (a) shall be retrievable and include the date of the transaction, the identity of each party to the transaction, including the ultimate consignee, an accounting of the quantity and form of listed chemical(s) and a description of the method of transfer.

(e) This Act shall not apply to the manufacture, distribution, sale import or export of any drug which may, under the Federal Food, Drug and Cosmetic Act be lawfully sold over the counter without prescription.

McCONNELL AMENDMENT NO. 1675

(Ordered to lie on the table.)

Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . PORNOGRAPHY VICTIMS' COMPENSATION ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the "Pornography Victims' Compensation Act of 1990".

(b) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds and declares that—

(A) protecting freedom of speech, within the bounds of safety to individuals and society, is essential to the preservation of a just and free society;

(B) consistent with the constitutional protection of freedom of speech, the State has a legitimate interest in restricting sexually explicit material, if there is a danger of harm or actual harm to individuals or society, such as the sexual exploitation of children by child pornography, the invasion of privacy and the home by indecent broadcasts, or the promotion of rape and sexual homicide by violent sexual material;

(C) the Attorney General's Commission on Pornography in 1986 found clinical and experimental evidence of a causal relationship between exposure to sexually explicit materials and sexual aggression, including the commission of unlawful sexual acts;

(D) the Attorney General's Commission on Pornography also found evidence that sexually explicit material need not be legally obscene to stimulate anti-social and potentially unlawful sexual aggression, if the material presents violation acts in a clear sexual context, or the sexual abuse of children:

(E) behavioral studies of serial murderers conducted by the Federal Bureau of Investigation have revealed a strong correlation between heavy exposure to violent sexual material and violent serial criminality;

(F) investigations conducted by the Child Pornography and Protection Unit of the United States Customs Service have revealed a nearly absolute correlation between heavy consumption of child pornography and child sexual abuse, including the use of child pornography to entrap children into the performance of sexual acts;

(G) recent psychological studies indicate a correlation between the growing number of children and youths who commit rape and other violent sexual offenses, and the declining age of first exposure to sexually explicit materials;

(H) sexual crimes such as rape and child abuse usually leave life-long psychological scars that may prevent the victims and his or her family from leading normal, fulfilled lives;

(I) the State has a legitimate interest in protecting its citizens, including children, from sexual crimes and in preventing such crimes through reasonable, effective, and constitutional means; and

(J) the State has a legitimate interest in providing adequate compensation to the victims of sexual crimes for their physical injuries, complete medical and psychological treatment, and continuing pain and suffering.

(2) PURPOSE.—It is the purpose of this section to require the producers, distributors, exhibitors, disseminators, and sellers of sexually explicit visual material to be jointly and severally liable for all damages resulting from any sexual offense that was at least partially caused by the sexual offender's exposure to the sexually explicit material.

(3) CONSTRUCTION.—The cause of action created by this section shall be available to any cause of action against a sex offender or any sexual offense.

(c) CAUSE OF ACTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a civil action may be instituted in an appropriate court against a producer, distributor, exhibitor, disseminator, or seller of sexually explicit visual material, pursuant to the provisions of this section, by—

(A) a victim of a rape, sexual assault, sexual abuse, sexual murder, or sexual crime as described under the relevant State or Federal law, whether or not such rape, assault, abuse, murder, or crime has been prosecuted or proven in a separate criminal proceeding.

(B) the estate of such a victim, or

(C) the guardian or survivors of any such victim.

(2) PROOF AND EVIDENCE.—To recover pursuant to the provisions of this section, the individual bringing such action must prove, by a preponderance of the evidence, that—

(A) the victim was a victim of a rape, sexual assault, sexual abuse, sexual murder, or sexual crime, as defined under the relevant State or Federal law, whether or not such rape, assault, abuse, murder, or crime has been prosecuted or proven in a separate criminal proceeding;

(B) the material—

(i) is obscene;

(ii) is child pornography; or

(iii) in the case of rape, sexual assault, sexual abuse, sexual murder, or any other violent sexual crime, is both sexually explicit and violent;

(C) the material was a proximate cause of the offense, by—

(i) inciting the sexual offender to commit the offense perpetrated against the victim; or

(ii) producing imminent lawless action or was likely to incite or produce imminent lawless action;

(D) the defendant is a producer or distributor of the material, or exhibited, disseminated, or sold the material to the sexual offender; and

(E) the sale or transport of the material affects interstate or foreign commerce.

(3) SEXUALLY EXPLICIT VISUAL MATERIAL AS CAUSE.—For purposes of this section, the finder of fact may reasonably infer that the sexually explicit visual material was a proximate cause of the offense, by inciting the offender to commit the offense if any of the following are found—

(A) similarities between the acts depicted in such material and the actual offense;

(B) tesimony of the offender to the effect that such material incited the commission of the offense; and

(C) testimony of experts, to the effect that such material incited or tended to incite the offender to commit the offense.

(4) APPLICABILITY.—The provisions of this section shall apply only to visual depictions of sexually explicit activity, including photographs, films, video-tapes, and live performances. The provisions of this section shall not apply to written descriptions, texts, or narratives.

(5) DAMAGES.—Any person who has brought an action pursuant to the provisions of this section and has met the requirements of the provisions of this section shall be awarded economic damages and compensation for pain and suffering as well as reasonable attorney's fees and costs of the suit.

(6) STATUTE OF LIMITATIONS.—Any action commenced under this subsection shall be forever barred unless the complaint is filed within 6 years after the right of action first accrued or, in the case of a person under a legal disability, not later than 3 years after the termination of such disability.

(d) DEFINITIONS.—For the purposes of this section, the term—

(1) "sexually explicit conduct" means actual or simulated—

(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) bestiality;

(C) masturbation;

(D) sadistic or masochistic abuse; or

(E) lascivious exhibition of the genitals or pubic area of any person;

(2) "violent" describes any acts or behavior, or any material that depicts such acts or behavior, in which women, children, or men are—

(A) victims of sexual crimes such as rape, sexual homicide, or child sexual abuse;

(B) penetrated by animals or inanimate objects; or

(C) tortured, dismembered, confined, bound, beaten, or injured, in a context that makes these experiences sexual or indicates that the victims derive sexual pleasure from such experiences;

(3) "minor" describes any person under the age of 18 years; and

(4) "child pornography" describes any depiction of a minor engaging or participating in sexually explicit conduct as defined in section 2256 of title 18, United States Code.

METZENBAUM AMENDMENT NO. 1676

Mr. METZENBAUM proposed an amendment to the bill S. 1970, supra, as follows:

On page 49, between lines 4 and 5, insert the following:

"(J) Springfield Armory SAR-48 (.308 caliber) and its variations;

"(K) Cobray SWD 9mm in any of its variants;

"(L) Mossberg Model 500 Bullpup 12 shotgun;

"(M) Ruger Mini-14/5F semiautomatic firearms;

"(N) Feather AT-9 centerfire semiautomatic in 9mm;

"(O) AP 9, 9mm assault pistol;

"(P) Thompson Ordnance M1, semiautomatic in .45 caliber;

"(Q) Franchi SPAS 12 shotgun;

"(R) Heckler and Koch HK-94 pistol;

"(S) Austrian Automatic Arms SAP pistol;

"(T) F.I.E. Spectre P. pistol;

"(U) Sterling Mark 7 pistol;

"(V) all other models by the same manufacturer with the same design which may have slight modifications or enhancements including a folding stock; adjustible sight; case deflector for left-handed shooters; left-handed fire adapter; shorter barrel; wooden, plastic, or metal stock; large size magazine; different caliber provided the caliber exceeds .22 rimfire; bayonet mount; tripod or bipod mount; or flash suppresser; and

"(W) any other firearm with an action design identical or nearly identical to an assult weapon specified in this paragraph which has been redesigned from, renamed, renumbered, or patterned after one of such specified assault weapons regardless of the company of production or country of origin, or any other firearm which has been manufactured or sold by another company under a licensing agreement to manufacture or sell an identical or nearly identical assault weapon as those specified in this paragraph, regardless of the company of production or country of origin."

SEC. . BAN ON SALE OF MAGAZINES AND BELTS HOLDING GREATER THAN 15 ROUNDS OF AMMUNITION.

(a) BAN.—Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(s)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive or possess a large-capacity detachable magazine or large-capacity ammunition belt, which can be employed by a semiautomatic firearm.

"(2) This subsection does not apply with respect to—

"(A) any transfer, importation, transporting, shipping or receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof; or

"(B) any transfer, transporting, shipping, receiving or possession of such magazine or ammunition belt that was lawfully possessed before the date of this subsection, except that no federally licensed firearms

dealer shall transfer such magazine or ammunition belt.

"(3) For purposes of this subsection—

"(A) The term 'large-capacity magazine' means a box drum or other container which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or a magazine which can be readily converted into a large-capacity magazine. Such term shall not include any magazine that has been permanently modified so that it will not hold more than fifteen rounds of ammunition.

"(B) The term 'large-capacity ammunition belt' means a belt or strip which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or an ammunition belt which can be readily converted into a large-capacity ammunition belt. Such term shall not include any ammunition belt that has been permanently modified so that it will not hold more than fifteen rounds of ammunition.".

(b) PENALTY SECTION.—Section 924 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(1) Whoever violates the provisions of this Act relating to large capacity detachable magazines and ammunition belts shall be fined not more than ten thousand dollars, imprisoned not more than two years, or both.".

BURNS AMENDMENT NO. 1677

(Ordered to lie on the table.)

Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . FINANCIAL INCENTIVES FOR CITIZEN INVOLVEMENT IN THE WAR AGAINST DRUGS.

Section 524(c)(1) of title 28, United States Code, is amended—

(1) by striking "Justice—" and inserting "Justice:";

(2) in subparagraph (A)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period; and

(3) in subparagraph (B)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period; and

(4) in subparagraph (C)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period;

(5) in subparagraph (D)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period;

(6) in subparagraph (E)—

(A) by striking "disbursements" and inserting "Disbursements"; and

(B) by striking the semicolon at the end and inserting a period;

(7) in subparagraph (F)—

(A) by striking "for" the first place it appears and inserting "For"; and

(B) by striking the semicolon at the end and inserting a period;

(8) in subparagraph (G)—

(A) by striking "for" the first place it appears and inserting "For"; and

(B) by striking the semicolon at the end and inserting a period;

(9) in subparagraph (H)—

(A) by striking "after" and inserting "After";

(B) by striking "H" and inserting "(I)"; and

(10) by inserting after subparagraph (G) the following:

"(H)(i) For the payment of an award to any person or persons who provide information leading to the arrest and conviction under Federal law of any individual or individuals for the unlawful sale, or possession for sale, of a controlled substance or a controlled substance analogue. The aggregate amount of such award shall be equal to 50 percent of the fair market value (as of the date of forfeiture) of all property forfeited to the United States as a result of such conviction and pursuant to a law enforced or administered by the Department of Justice: *Provided,* That payment of such awards shall not reduce the amount of such moneys or property available for distribution to State and local law enforcement agencies.

"(ii) For the payment to the State or States in which the Federal offense was committed by such individual or individuals, of an incentive award to encourage such State or States, at their option, to establish a program (including outreach) to pay rewards to individuals who provide information leading to the arrest and conviction under State law of individuals for the unlawful sale, or possession for sale, of controlled substances or controlled substance analogues. The aggregate amount of such incentive award shall be equal to 5 percent of the fair market value (as of the date of forfeiture) of all property forfeited to the United States as a result of the convictions referred to in clause (i) and pursuant to a law enforced or administered by the Department of Justice.

"(iii) For purposes of this subparagraph—

"(I) the term 'controlled substance' has the meaning stated in section 102(6) of the Controlled Substances Act;

"(II) the term 'controlled substance analogue' has the meaning stated in section 102(32) of the Controlled Substances Act; and

"(III) the term 'individual' does not include an individual who is convicted under Federal or State law for the unlawful sale, or possession for sale, of a controlled substance or a controlled substance analogue.".

DeCONCINI (AND OTHERS) AMENDMENT NO. 1678

(Ordered to lie on the table.)

Mr. DeCONCINI (for himself, Mr. D'AMATO, Mr. JOHNSTON, Mr. BIDEN, Mr. WILSON, Mr. CRANSTON, Mr. COATS, Mr. BOSCHWITZ, Ms. MIKULSKI, Mr. SIMON, Mr. DOMENICI, Mr. BRADLEY, Mr. LOTT, Mr. SHELBY, Mr. INOUYE, Mr. SARBANES, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. BRYAN, Mr. HEFLIN, Mr. MOYNIHAN, Mr. BURNS, Mr. GORE, Mr. REID, and Mr. WARNER) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the end of the bill add the following new title:

TITLE —FEDERAL LAW ENFORCEMENT PAY REFORM

SEC. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Pay Reform Act of 1990".

SEC. . PAY FOR LAW ENFORCEMENT OFFICERS.

(a) AMENDMENTS.—

(1) IN GENERAL.—Subchapter VII of chapter 53 of title 5, United States Code, is amended by adding at the end the following:

"§ 5376. Pay for law enforcement officers

"(a) For the purpose of this section, the term 'law enforcement officer' means any law enforcement officer within the meaning of section 8331(20) or section 8401(17) with respect to whom the provisions of subchapter III of chapter 53 apply (or would apply, but for this section).

"(b) Except as otherwise provided in subsection (c)—

"(1) effective for pay periods beginning on or after October 1, 1990, and until otherwise provided for under this subsection—

"(A) The minimum rate of basic pay for a law enforcement officer whose position is classified at a grade above GS-2 and below GS-11 shall be determined in accordance with the following table:

"If classified at the following grade:	The minimum rate of basic pay shall be the rate payable for the following step of that grade (determined using the rates of basic pay in effect as of September 30, 1990):
GS-3	step 10;
GS-4	step 10;
GS-5	step 10;
GS-6	step 8;
GS-7	step 6;
GS-8	step 6;
GS-9	step 4;
GS-10	step 3; and

"(B) the rate for each step above the minimum rate for each grade under subparagraph (A) shall, for any law enforcement officer, be the rate prescribed by the Office of Personnel Management, taking into consideration the minimum rates set forth in subparagraph (A) and the need to provide for appropriate pay relationships within and between grades;

"(2) in order to ensure the continued competitiveness of the rates of pay established under this subsection—

"(A) the Office of Personnel Management shall prescribe regulations under which the Office shall—

"(i) compare rates paid to law enforcement officers under this subsection with the rate generally being paid to individuals performing the same levels of work for State and local governments (determined on a nationwide basis); and

"(ii) determine whether an increase should be made under this paragraph as of the next opportunity allowable under subparagraph (B) and, if so, the size of that increase; and

"(B) whenever the Office makes an affirmative determination under the provisions of subparagraph (A)(ii), provide for any pay increase determined under those provisions to be appropriate, effective beginning with the first applicable pay period beginning on or after October 1, 1993, or October 1 of any third year thereafter (whichever occurs next);

"(3) effective at the beginning of the first applicable pay period beginning on or after the first day of the month in which an adjustment takes effect under section 5305 in the rates of pay under the General Schedule, the rates of pay in effect under this subsection shall be adjusted by the overall

average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustment in the rates of pay under the General Schedule; and

"(4) the Office shall prescribe such regulations as may be necessary for the coordination of paragraphs (2) and (3).

"(c)(1) The purpose of this subsection is to establish a pay-adjustment mechanism for law enforcement officers which takes into account the fact—

"(A) that the cost of living in certain parts of the United States is appreciably higher than in others; and

"(B) that the Government's success in recruiting and retaining the best-qualified individuals to serve as law enforcement officers, particularly in areas having higher living costs, will in large part depend on its ability to keep rates of pay at levels that are competitive with those offered by State and local governments.

"(2) To carry out the purpose of this subsection, the Office of Personnel Management shall prescribe regulations which shall provide for the following:

"(A) The establishment of an appropriate number of geographic regions (established using consolidated metropolitan statistical areas, as defined by the Office of Management and Budget) with respect to which pay comparisons shall be made, special pay rates for law enforcement officers may be established or adjusted, and the provisions of this subsection shall otherwise be carried out.

"(B)(i) Procedures for identifying those regions for which higher pay rates are needed, as identified under clause (ii).

"(ii) A region shall be considered to satisfy the requirements for higher pay rates if, using the average of—

"(I) a value (determined by the Office, and expressed as a percentage) representing that region's relative cost of living, as compared with the cost of living in the United States as a whole, and

"(II) a value (determined by the Office, and expressed as a percentage) representing the relative size of the average salary for State and local law enforcement officers within that region (expressed as a single weighted average salary), as compared with the average salary for State and local law enforcement officers in the United States as a whole (expressed as a single weighted average salary),

such region is determined to be at least 5 percent above the national average (which, for purposes of this clause, shall be deemed to be equal to 100 percent).

"(C) Procedures under which higher rates of pay for law enforcement officers within a particular region shall be established or adjusted under this subsection.

"(3)(A) A rate of basic pay payable to a law enforcement officer under this subsection may not be less than the rate to which such officer would otherwise be entitled if this subsection had not been enacted.

"(B) A rate of basic pay payable to a law enforcement officer under this subsection, based on such officer's serving in a particular region, shall cease to apply if such officer is transferred or reassigned to a place outside of such region.

"(4) The first rates of pay established under this subsection shall be effective for pay periods beginning on or after April 1, 1991, and, notwithstanding any other provision of this subsection, shall be based on pay data compiled by the National Advisory Commission on Law Enforcement, as contained in its report under section 6160(h) of the Anti-Drug Abuse Act of 1988. Subsequent adjustments under this subsection may be made, effective for applicable pay periods beginning on or after October 1, 1993, and October 1 of any third year thereafter, subject to the preceding paragraphs of this subsection.

"(d)(1) the Bureau of Labor Statistics shall conduct such pay surveys as may be necessary in order to compile any data (relating to rates of pay being paid by State or local governments) which may be necessary to carry out this section. To the extent practicable, data so compiled shall reflect rates of pay in effect as of Janaury 1, 1993, and January 1 of every third year thereafter.

"(2) Except as otherwise expressly provided for in this section, any comparisons or determinations under this section shall, to the extent that they involve rates of pay or other data relating to State or local government, be based solely on data compiled under this subsection.

"(e)(1) If higher rates of basic pay under subsection (c) are in effect for any law enforcement officers within a goegraphic region (as established under subsection (c)(2)(A)), the head of the agency concerned (or designee thereof) may, with respect to any employee described in paragraph (2), provide for such higher rates of basic pay as the agency head (or designee) considers appropriate.

"(2) Authority under this subsection may be exercised with respect to any employee of the agency who—

"(A) are assigned to the same organizational unit or component, and the same geographic region (as established under subsection (c)(2)(A)), as the law enforcement officers receiving the higher rates of basic pay; and

"(B) perform services ancillary to or in support of those performed by law enforcement officers within that unit or component.

"(3) The head of each agency (or designee thereof) shall prescribe such regulations as may be necessary to carry this subsection out within such agency.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 5, United States Code, is amended by adding after the item relating to section 5375 the following:

"5376. Pay for law enforcement officers.".

(b) SAME BENEFITS FOR OTHER LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—The appropriate agency head (as defined in paragraph (3)) shall prescribe regulations under which the purposes of the amendments made by subsection (a) shall be carried out with respect to individuals holding position described in paragraph (2) (and appropriate support personnel under the jurisdiction of such agency head).

(2) APPLICABILITY.—This subsection applies with respect to any—

(A) member of the United States Secret Service Uniformed Division;

(B) member of the United States Park Police;

(C) special agent within the Diplomatic Security Service;

(D) postal inspector;

(E) probation officer (referred to in section 3672 of title 18, United States Code); or

(F) pretrial services officer (referred to in section 3153 of title 18, United States Code).

(3) DEFINITION.—For the purposes of this subsection, the term "appropriate agency head" means—

(A) with respect to any individual under paragraph (2)(A), the secretary of the Treasury;

(B) with resepct to any individual under paragraph (2)(B), the Secretary of the Interior;

(C) with respect to any individual under paragraph (2)(C), the Secretary of State;

(D) with respect to any individual under paragraph (2)(D), the Postmaster General; and

(E) with respect to any individual under paragraph (2)(E) or (2)(F), the Director of the Administrative Office of the United States Courts.

(c) REPORT TO CONGRESS.—Not later than January 1, 1993, the Office of Personnel Management, in consultation with Federal law envorcement agencies and law enforcement employee groups, shall submit to Congress, in writing, a plan to establish a separate pay and classification system for law enforcement officers and specifications for legislation to implement such plan.

SEC. . RETENTION ALLOWANCES.

(a) IN GENERAL.—Subchapter IV of chapter 59 of title 5, United States Code, is amended by adding at the end the following:

"§ 5949. Retention allowances for law enforcement officers

"(a) For the purpose of this section, the term 'law enforcement officer' means—

"(1) a law enforcement officer within the meaning of section 5376(a);

"(2) a member of the United States Secret Service Uniformed Division;

"(3) a member of the United States Park Police;

"(4) a special agent within the Diplomatic Security Service;

"(5) a postal inspector;

"(6) a probation officer (referred to in section 3672 of title 18, United States Code); and

"(7) a pretrial services officer (referred to in section 3153 of title 18, United States Code).

"(b)(1) Notwithstanding any other provision of law, and in order to retain highly qualified law enforcement officers who possess special skills or experience or whose continued services are particularly important due to factors associated with the geographic area to which they are assigned, the head of an agency, subject to the provisions of this section and such regulations as the President or his designee may prescribe, may enter into a service agreement with a law enforcement officer.

"(2) Under any such agreement, the law enforcement officer shall agree to complete a specified period of service in such agency in return for an allowance, for the duration of such agreement, in an amount determined by the agency head and specified in the agreement, but not to exceed $10,000 per year.

"(c) In order to be eligible for an allowance under this section, a law enforcement officer must then satisfy the age and service requirements under section 8336 or 8412, as the case may be, for entitlement to an annuity.

"(d) Any agreement entered into by a law enforcement officer under this section shall be for a period of 1 year of service in the agency inmvolved unless the officer requests an argument for a longer period of service.

"(e) Unless otherwise provided for in the agreement under subsection (f), an agreement under this section shall provide that the law enforcement officer, in the event that such officer voluntarily, or because of misconduct, fails to complete at least 1 year

of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of the agency, pursuant to such regulations as may be prescribed under this section by the President or his designee, determines that such failure is necessitated by circumstances beyond the control of the officer.

"(f) Any agreement under this section shall specify, subject to such regulations as the President or his designee may prescribe, the terms under which the head of the agency and the law enforcement officer may elect to terminate such agreement, and the amounts, if any, required to be refunded by the law enforcement officer for each reason for termination.

"(g)(1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, 84, or 87, or other benefits related to basic pay.

"(2) Any allowance under this section for a law enforcement officer shall be paid in the same manner and at the same time as the officer's basic pay is paid.

"(h) An agency head may delegate, in whole or in part, any functions vested in such agency head under this section."

"(b) TABLE OF SECTIONS.—The table of sections for chapter 59 of title 5, United States Code, is amended by adding after the item relating to section 5948 the following:

"5949. Retention allowances for law enforcement officers.".

SEC. . RELOCATION PAYMENTS.

(a) IN GENERAL.—Subchapter II of chapter 57 of title 5, United States Code, is amended by inserting after section 5724c the following:

"§5724d. Relocation payments for law enforcement officers

"(a) For the purpose of this section, the term 'law enforcement officer' has the same meaning as under section 5949(a).

"(b) Under such regulations as the head of an agency (or designee thereof) may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to such agency for administrative expenses are available for payments under this section.

"(c) Payments under this section—

"(1) may be paid to any law enforcement officer within the agency who is transferred or reassigned, in the interest of the Government, to an area or region (not within a foreign country) having higher than average housing costs (as determined under the regulations); and

"(2) may not be made to a law enforcement officer if, or to the extent that, such payment would cause the total amount paid to such officer under this section to exceed $20,000 (including, in the case of any individual who is married to another law enforcement officer, any amounts paid under this section to the spouse).

"(d) An agency may make a payment under this section only after the law enforcement officer selected agrees in writing to remain a law enforcement officer for a period of time (not to exceed 3 years) specified in the agreement, unless separated for reasons beyond the officer's control which are acceptable to the agency. If the individual violates the agreement, any money paid to the individual under the agreement is recoverable from the individual as a debt due the United States.".

"(b) TABLE OF SECTIONS.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5724c the following:

"5724d. Relocation payments for law enforcement officers.".

SEC. . OTHER AMENDMENTS TO TITLE 5, UNITED STATES CODE.

(a) MINIMUM RATE FOR NEW APPOINTMENTS.—

(1) IN GENERAL.—Section 5333 of title 5, United States Code, is amended by adding at the end the following:

"(c) In applying subsection (a) with respect to a law enforcement officer (within the meaning of section 5376(a)), the reference in such subsection to 'GS-11' shall be deemed to read 'GS-3'.".

(2) OTHER OFFICERS.—Each of the appropriate agency heads (as defined in section (b)(3)) shall prescribe regulations under which the purpose of the amendment made by paragraph (1) shall be carried out with respect to individuals under section (b)(2) under the jurisdiction of such agency head.

(b) INCENTIVE BONUS FOR FOREIGN LANGUAGE CAPABILITIES.—

(1) IN GENERAL.—Chapter 45 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—AWARDS TO LAW ENFORCEMENT OFFICERS FOR FOREIGN LANGUAGE CAPABILITIES

"§ 4521. Definition

"For the purpose of this subchapter, the term 'law enforcement officer' has the same meaning as under section 5949(a).

"§ 4522. General provision

"An award under this subchapter is in addition to the basic pay of the recipient.

"§ 4523. Award authority

"(a) An agency may pay a cash award, up to 25 percent of basic pay, to any law enforcement officer employed in or under such agency who possesses and makes substantial use of 1 or more languages (other than English) in the performance of official duties.

"(b) Awards under this section shall be paid under regulations prescribed by the head of the agency involved (or designee thereof). Regulations prescribed by an agency head (or designee) under this subsection shall include—

"(1) procedures under which foreign language proficiency shall be ascertained;

"(2) criteria for the selection of individuals for recognition under this section; and

"(3) any other provisions which may be necessary to carry out the purposes of this subchapter.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 45 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—AWARDS TO LAW ENFORCEMENT OFFICERS FOR FOREIGN LANGUAGE CAPABILITIES

"4521. Definition.
"4522. General provision.
"4523. Award authority.".

(c) AGE FOR MANDATORY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8335(b) of title 5, United States Code is amended—

(A) in the first sentence, by striking "law enforcement officer or a"; and

(B) by inserting after the first sentence the following: "A law enforcement officer who is otherwise eligible for immediate retirement under section 8336(c) of this title shall be separated from the service on the last day of the month in which he becomes 57 years of age or completes 20 years of service if then over that age."

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8425(b) of title 5, United States Code, is amended—

(A) in the first sentence, by striking "law enforcement officer or" each place it appears; and

(B) by inserting after the first sentence the following: "A law enforcement officer who is otherwise eligible for immediate retirement under section 8412(d) shall be separated from the service on the last day of the month in which that law enforcement officer becomes 57 years of age or completes 20 years of service if then over that age."

(d) OVERTIME RATES.—Section 5542(a) of title 5, United Stats Code, is amended by adding at the end the following:

"(4) Notwithstanding paragraphs (1) and (2) of this subsection, for an employee who is a law enforcement officer (within the meaning of section 5949(a) of this title), the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.".

(e) LIMITATION ON PREMIUM PAY.—Section 5547 of title 5, United States Code, is amended by adding at the end the following:

"(c)(1) The provisions of subsection (a) shall not apply to the pay of a law enforcement officer for any pay period in which such officer is required to perform overtime under section 5542(a) or administratively uncontrollable overtime under section 5545(c)(2).

"(2) Notwithstanding the provisions of paragraph (1), no law enforcement officer may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the scheduled rate of pay for level V of the Executive Schedule.

"(3) For purposes of this subsection, the term 'law enforcement officer' has the same meaning as under section 5949(a).".

(f) DEFINITIONAL AMENDMENT.—Section 5541(2)(iv) of title 5, United States Code, is amended to read as follows:

"(iv) a member of—

"(I) the Metropolitan Police or the Fire Department of the District of Columbia; or

"(II) a member of the United States Secret Service Uniformed Division, a member of the United States Park Police, a special agent within the Diplomatic Security Service, a postal inspector, a probation officer (referred to in section 3153 of title 18), or a pretrial services officer (referred to in section 3153 of title 18), other than for purposes of sections 5545(a) and 5546;".

On page 2, add at the end of the matter related to the table of contents the following:

TITLE —FEDERAL LAW ENFORCEMENT PAY REFORM

Sec. . Short title.
Sec. . Pay for law enforcement officers.
Sec. . Retention allowances.
Sec. . Relocation payments.
Sec. . Other amendments to title 5, United States Code.

SPECTER AMENDMENT NOS. 1679 AND 1680

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1679

Section 1. Authorization of Death Penalty.

Section 408(e)(1) of the Controlled Substances Act (21 U.S.C. 848(e)(1)), as amended by—

(1) deleting the word "and" at the end of paragraph (A);

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

(3) inserting the following new paragraph (C):

"(C) any person who commits an offense in violation of subsection (a) under the conditions set forth in subsection (b) after one or more prior convictions of him under this section have become final, may be sentenced to death, or shall be imprisoned for life and fined in accordance with subsection (a) of this section. In a hearing held pursuant to subsection (i), the trier of fact shall consider those aggravating and mitigating factors hereafter described to the extent they are relevant to an offense which did not directly result in death.".

AMENDMENT No. 1680

SHORT TITLE

SECTION 1. This Act may be cited as the "Torture Victim Protection Act of 1989".

LIABILITY; LIMITATIONS ON REMEDIES

SEC. 2. (a) Every person who, under actual or apparent authority of any foreign nation, subjects any person to torture or extrajudicial killing shall be liable to the party injured or his or her legal representatives in a civil action.

(b) The court shall decline to hear and determine a claim under this section if the defendant establishes that clear and convincing evidence exists that the claimant has not exhausted adequate and available remedies in the place in which the conduct giving rise to the claim occurred. The court shall not infer the application of any statute of limitations or similar period of limitations in an action under this section.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) the term "torture" shall include any act by which severe pain or suffering (other than pain or suffering arising only from or inherent in, or incidental to, lawful sanctions), whether physical or mental, is intentionally inflicted on a person for such purpose as obtaining from that person or a third person information or a confession, punishing that person for an act that person or a third person has committed or is suspected of having committed, or coercing that person or a third person, or for any reason based on discrimination of any kind; and

(2) the term "extrajudicial killing" means a deliberated killing without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensible by civilized peoples.

HATCH AMENDMENT NO. 1681

Mr. Hatch proposed an amendment to the bill S. 1970, supra, as follows:

Strike on page 46, line 15, through page 53, line 5.

MEDALS IN COMMEMORATION OF THE CENTENNIAL OF YOSEMITE NATIONAL PARK

McCLURE AMENDMENT NO. 1682

Mr. McCLURE proposed an amendment to the bill (S. 2388) to provide for the striking of medals in commemoration of the centennial of Yosemite National Park, as follows:

At the end of S. 2388, add the following new title:

TITLE III—SILVER PROOF SETS

SEC. 301. SHORT TITLE.

This title may be cited as the "Silver Coin Proof Sets".

SEC. 302. AMENDMENT TO TITLE 31, UNITED STATES CODE.

Subsection (a) of section 5132 of title 31, United States Code is amended by re-designating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2)(A) In addition to the proof sets under paragraph (1), the Secretary shall annually sell to the public directly and by mail, sets of proof coins minted under paragraphs (1) through (6) of section 5112(a) of this title in which, notwithstanding any other provision of law, the coins described in paragraphs (1), (2), (3), and (4) of section 5112(a), shall be an alloy of 90 percent silver and 10 percent copper. All coins under this paragraph shall have a Mint mark indicating their place of manufacture. For purposes of subsection (a)(3) of section 5111 of this title, and paragraph (1) of this subsection, all coins minted under this paragraph shall be considered numismatic items.

"(B) The Secretary shall obtain silver for coins authorized under this title by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 USC, 98 et seq.). At such time as the silver stockpile is depleted, the Secretary shall acquire silver for such coins by purchase of silver mined from natural deposits in the United States, or in a territory or possession of the United States. Within one year after the month in which the ore from which it is derived was mined. The Secretary shall pay not more than the average world price for the silver. The Secretary may issue such regulations as may be necessary to carry out this paragraph.

"(C) The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code."

SEC. 303. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

"(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

"(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity. No firm shall be considered a Federal contractor for purposes of 41 C.F.R. part 60 et seq. as a result of participating as a United States Mint coin consignee."

CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

AKAKA (AND INOUYE) AMENDMENT NO. 1683

(Ordered to lie on the table.)

Mr. AKAKA (for himself and Mr. INOUYE) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the appropriate place in the bill, add the following new title:

TITLE —ICE ENFORCEMENT AND PREVENTION ACT

SECTION 1. SHORT TITLE.

This title may be cited as the "Ice Enforcement and Prevention Act of 1990."

SEC. 2. STRENGTHENING FEDERAL PENALTIES.

(a) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended as follows:

(1) at the end of clause (vii) by striking the word "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline.

(b) Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking the word "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline.

SEC. 3. EDUCATION AND PREVENTION.

(a) Not later than six months after the date of enactment of this section, the Department of Education and the National Institute on Drug Abuse shall jointly develop model, community-based curricula for disseminating comprehensive information on methamphetamine, crystal methamphetamine, and chemically related stimulants.

(b) Not later than 12 months after the date of enactment of this section, the Department of Education shall establish not less than four state-wide or regional methamphetamine prevention demonstration programs, including one such project in California, Hawaii, Oregon and such other state that is experiencing serious methamphetamine abuse problems as determined by the Secretary of Education.

(c) There is authorized to be appropriated $4,000,000 in fiscal years 1991 and 1992 to establish and operate the model demonstration programs required under subsection (b) of this section.

(c) Not later than 18 months after the date of enactment of this section, the Department of Education and the National Institute on Drug Abuse, in consultation with the Secretaries of Education from the States listed under subsection (b), conclude that the model curricula developed under subsection (a) demonstrate practical educational merit, the Department of Education shall distribute such model curricula to every primary and secondary school in the country.

SEC. 4. RESEARCH AND TREATMENT

(a) The Director of the National Institute on Drug Abuse, through the Medications Development Program, shall prioritize the development of a drug to treat addictions to:

(1) amphetamine,
(2) methamphetamine,
(3) crystal methamphetamine, and
(4) chemically related stimulants.

(b) The Director of Health and Human Services shall investigate or cause to be investigated the syndrome that results from methamphetamine addiction at birth.

(c) The Director shall, on the basis of the findings from subsection (6), develop a protocol for treating, physically and mentally, newborns afflicted with methamphetamine addiction.

Mr. AKAKA. Mr. President, I have an amendment at the desk which I have introduced and hope the committee will be able to consider it at the earliest opportunity. It would carry out a multipronged attack on the use of crystal meth.

Crystal meth, or "ice" as it is known on the streets has the potential for overtaking "crack" cocaine as the most insidious drug of choice for our young people today. Although both crack and ice may be smoked, the similarity ends there. Ice is cheaper—only $50 will buy enough of the drug to keep someone high for a week; its high lasts anywhere from 7 to 30 hours; it leaves its user prone to extreme, uncontrolled violence; and many times it is taken in conjunction with other drugs.

Mr. President, I regret to say that my own State of Hawaii is setting the nationwide trend on smoking ice. In fact, last year, as a member of the House Select Committee on Narcotics Abuse and Control, I sought the assistance of William Bennett, the Director of National Drug Control Policy in urging the administration to address the looming ice epidemic. I renewed my plea to Mr. Bennett again this March before a House Appropriations Subcommittee hearing. Unfortunately, it appears that the administration is continuing to underestimate Hawaii's ice problem, which soon may become everyone's problem.

I disagree with the notion that ice poses no threat to the United States at the present time. A National Institute of Drug Abuse [NIDA] study showed that in 1989 there was a 70-percent increase nationwide in hospitalizations related to ice.

In the area of enforcement and crime prevention, I am proposing a tough, no-nonsense, no-compromise approach. The message will be clear. We want ice off the streets, out of the schoolyard, and beyond the reach of our young people. And if you violate the law, you will do time—hard time.

My amendment attacks ice distribution by allowing prosecutors to seek sharply increased penalties for major crystal meth dealers. For example, under my amendment an ice dealer who sells 5 grams of ice—up to 200 hits—faces up to 40 years in prison, double the penalty under the existing law. It also doubles the mandatory minimum penalty for midlevel ice dealers from 5 to 10 years.

The second aspect of my amendment directs the Institute of Drug Abuse to improve the methods of treating ice addicts and assist with the treatment of infants born with ice addictions. Finally, my amendment would develop a model educational program in the State of Hawaii to educate students against the dangers of ice.

I stongly believe that we must act immediately to let the drug dealers know that we want ice away from our most precious natural resources, our Nation's young people. Ice is like a cancer. We can treat it now before it becomes a serious problem, or we can wait until it spreads so far that there will be no hope for a cure.

Thank you, Mr. President. I urge my colleagues to support this important amendment.

Mr. President, I ask unanimous consent that section-by-section analysis of my amendment be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

Section 101. This section creates stiff federal penalties for the production, manufacture, sale or distribution of "ice," a highly pure and smokable form of methamphetamine. Under existing law, the penalties for "ice" are the same as those for methamphetamine generally, regardless of the fact that "ice" is more highly addictive and physically dangerous than methamphetamine.

Specifically, this amendment provides a penalty of not less than 10 years and up to life imprisonment for the manufacture, distribute or possession with intent to distribute extremely large quantities of "ice" (25 grams or more). For mid-level distribution (2 grams or more), the federal penalty is not less than 5 years and not more than 40 years.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, May 22, beginning at 10 a.m., to conduct a business meeting to mark up S. 2183, the Water Resources Development Act (as modified).

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, May 22, 1990, at 2 p.m. to hold a closed hearing on intelligence matters.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, May 22, at 10 a.m. for a hearing on the nomination of Annice M. Wagner, to be associate judge, District of Columbia Court of Appeals.

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

SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Mr. MITCHELL. 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 Tuesday, May 22, at 2:15 p.m., for a hearing on "Job Training and Education for the Homeless as Authorized by the Stewart B. McKinney Homeless Assistance Act."

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. 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, Tuesday, May 22, 1990, at 10 a.m. to conduct an oversight hearing on deposit insurance reform.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 22, 1990, at 10 a.m. to consider pending committee business.

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

SUBCOMMITTEE ON PROJECTION FORCES AND REGIONAL DEFENSE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Armed Services Committee Subcommittee on Projection Forces and Regional Defense be authorized to meet in open session on Tuesday, May 22, 1990, at 9:30 a.m. to receive testimony on the Navy Shipbuilding and Conversion Program in review of S. 2171, the Department of Defense Authorization Act for fiscal year 1991.

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

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the

Senate on Tuesday, May 22, 1990, at 4 p.m. to receive a briefing on the supplemental appropriations conference; to review and decide on alternative sources for the manpower personnel reprogramming; and to consider a CHAMPUS reprogramming.

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

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, May 22, 1990, at 2 p.m. in open session to consider the nomination of Lt. Gen. Carl W. Stiner, USA, to be general and commander-in-chief, U.S. Special Operations Command.

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

ADDITIONAL STATEMENTS

AUNT MAE

● Mr. KOHL. Mr. President, 100 years ago, on May 21, 1890, Mae Croak was born in the city of Chicago. Ultimately she had the good sense to move to Wisconsin and, as a result, I have the good fortune to represent her in the Senate. In recognition of her birthday, I rise to pay a small tribute to her today.

Mae's mother, born Catherine Anastasia Jackson, was an Irish woman who emigrated to our country from London in 1880. Her father, Thomas Francis Croak, was a "true American," having been born on the Fourth of July in 1864. Mae was the third of nine children, and after the early death of her father and eldest sister, much of the responsibility for raising this clan fell on her shoulders. In an effort to meet that responsibility, she lied about her age and went to work at Marshall Fields when she was just 14 years old. After 17 years at Fields, she began an even longer distinguished career with the Pullman Co.

While her work history is impressive, I think there is something else we can learn from Mae Croak. You know, sometimes I think that in every immigrant family there must have been at least one saint, one person always relied on for strength and love and support. Aunt Mae was that saint to her 8 brothers and sisters, to her 15 nieces and nephews, to her 47 grand nieces and nephews, and to the 22 great grand nieces and nephews so far born to her family. Aunt Mae is a bridge to the past for the youngest of them, and she was diaper changer, babysitter, and nurse to most of the older ones. Visits from Aunt Mae were always a highpoint for her family and friends; they looked forward to seeing her—and getting the special treats she always brought and listening to her sing "Is It True What They Say about Dixie."

Mr. President, most of the small incidents of steadfast love that demonstrate what is best in this world remain unreported. For the RECORD, I would like to simply mention one example Aunt Mae's commitment to the best of human values. When her sister Frances was in a nursing home for several years, Aunt Mae and another sister, Evelyn—a wonderful person in her own right who is a mere 86—did not let a day pass without one of them staying with her. That kind of love cannot be understood, Mr. President, it can only be cherished—and it should be recognized.

The Croak clan is blessed by having Aunt Mae with them still. Her quick memory and good humor make her a delightful companion, and her 100 years make her a living history book. I would like to just share a few reflections on this amazing century Mae witnessed.

The year Mae was born, Congress was in the midst of passing the Sherman Antitrust Act. Benjamin Harrison was President; the railroad barons were kings. We had not yet invented the car, and the Wright Brothers had not flown. Oklahoma became a territory that year, as Wyoming and Idaho became States; 1890 was the year Yosemite National Park was created and the year peanut butter was invented. Tchaikovsky was composing, Ibsen was writing, Monet was painting. And a pitcher named Cy Young signed that year with Cleveland.

Think of the progress Aunt Mae has seen. Mae was 27 when the United States entered World War I. She was 40 when we entered the Depression. While we may not have found another pitcher like Cy Young, we did manage to put a human on the Moon. She now uses cordless telephones and remote control color televisions, and the young girls who call her great great Aunt Mae learn about computers in school.

Mr. President, 100 years is a landmark in time. We recognize the amazing achievement simply to have survived that long in good health. But Aunt Mae is and has been something very special in this world, in ways which far outnumber her years. The lives she has touched with her kindness all carry a bit of Aunt Mae's grace with them. The members of her family are engaged in productive lives, contributing to their communities in many important ways all over the United States. We all owe a special debt to our ancesters, to the sacrifices they made, and to the world they helped create for us. In the name of Mae Croak, I would like to take this occasion to say "thank you" to the thousands of saints in the thousands of families who have helped make America great. And in the name of the thousands of Americans who have been touched by this wonderful woman, I would like to say. "happy birthday, Aunt Mae." May it bring you as much joy as you have brought us.●

RETIREMENT OF JOHN BONASSI, MAYOR OF GREEN TREE, PA

● Mr. HEINZ. Mr. President, at the end of this year, after 14 years in local elected office, Mayor John Bonassi of Green Tree, PA, will be retiring from public service. I rise today to recognize his accomplishments and dedicated service to Green Tree and neighboring communities.

John's government service spans two decades, as an appointed official in county government, as Green Tree councilman, as council president, and most recently as mayor. I might add, as well, that this Senator has an especially keen appreciation for John's talents, as he also served for a number of years as my executive assistant in Pittsburgh, directing my Senate office operations in western Pennsylvania.

As a lifelong resident of Green Tree, John exhibited an early interest in his community's affairs. At the age of 30, he was elected to council for the first of three consecutive terms, and during his last 6 years he was elected president of council. In 1986 his constituents demonstrated their confidence in him by electing him their mayor.

John has worked tirelessly on behalf of his constituents—to secure both public and private investment in jobs and economic growth, to improve the quality of roads and streets, to make the borough a safe and good place to live, and to educate parents and children alike about the dangers of drugs and alcohol. Indeed, in all of these endeavors and more he always sought to raise the standard of living for Green Tree residents.

John brought a well-developed professionalism to his responsibilities, in budgeting, personnel, and providing local services. But John's constituents count on him not just to make sure the streets are plowed free of snow and safe to walk at night. They know, too, that they can find him ready with a listening ear, or a fresh notepad to take down their ideas and concerns, or perhaps just to talk across the fence about the weather. His personal concern for people recalls all that is uniquely special to America's small towns. Indeed, John's ideals have played a significant role in making Green Tree a great community, large or small.

Mr. President, from thousands of neighborhoods and communities like Green Tree, our Nation draws its values and innate strength. On behalf of all of my Pennsylvania constituents, I salute my good friend, John Bonassi, for doing so much for his community,

and in a larger context, for supporting the small town foundation of our democracy.●

TRIBUTE TO RICHARD CISEK

● Mr. DURENBERGER. Mr. President, the Minnesota Orchestra will soon lose a great man, a great manager and a great leader when Richard Cisek retires later this year.

I first met Dick Cisek when I served as executive director of the Governor's Commission on the Arts in Minnesota. The wisdom and insight he shared, helped develop my own thoughts and attitudes toward music and the arts in general. And as we now face trying times here in the Congress for funding for the arts, it is these values that I return to to help guide my efforts.

Through his 32 years with the Minnesota Orchestra as public relations director, general manager, and finally as president, Dick shepherded the Minnesota Orchestra from a 35-week, two concerts a week performance to a full 52-week ensemble. He turned a city orchestra into an orchestra that reaches to all areas of the State and the region. Under Cisek's direction, the Minnesota Orchestra has turned into one of the country's finest orchestras.

Mr. President, while Cisek would be the last person to call himself a great artist, he was indeed that. His love and understanding of the music allowed Dick to never lose sight of the fact that music making is first an artistic activity, not a business. But through his skill and leadership, he was able to take the music and apply the business techniques he learned at the Warton School of Finance and Commerce to come up with a delicate balance between policy and performance that has helped pass on to others the music he loves so dearly.

Cisek has engineered some of the early performances of such great composers as Leonard Slatkin, Pinchas Zukerman, Henry Mancini, Marvin Hanisch, Andre Watts, and Andre Previn. As each of these artist has moved on, so too is it time for Dick Cisek to move on. He will now take a well deserved rest and spend time with his family. But he will also continue to assist the orchestra and will continue to share with others the love he has found in music. The departure of Dick Cisek closes the door to an eloquent and successful chapter of the Minnesota Orchestra. He will be missed.●

APPOINTMENT OF RICHARD WEST, JR., AS DIRECTOR OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

● Mr. BINGAMAN. Mr. President, a few weeks ago, I had the pleasure of recommending Richard West, Jr., to serve as Director of the National Museum of the American Indian. But to be quite honest, I do not know how much my words of praise mattered—Rick's strong qualifications and experiences in the Indian community and in Washington beckoned him to this most important position.

Although I could elaborate on Rick's impressive educational and work experiences, I think it is more appropriate to focus on the mutual respect he shares with the Indian community. This museum—which has been a labor of love for so many people on the Hill and across the country—will, of course, be a tremendous source of pride for the Indian people. But it will also be much more: It will be a place where opinions are formed, where stereotypes are dispelled, and where a better understanding of native Americans begins. The knowledge learned and the myths broken will last a lifetime and they will even be passed down to future generations.

With the proper tools, with the proper care, and with the proper direction, visitors to this museum can learn about the real contribution of the native American culture. I believe that Rick will offer that proper direction. His life experiences—as a person whose upbringing was built on a Cheyenne cultural heritage, as a member of family that enjoys a national reputation in the art world, and as a person whose long time work with the Indian tribes and in Indian affairs has earned him the respect of the Indian people—indicate that he will do an outstanding job serving not only the Indian community, but also the many millions of us who have such a great respect and interest in this most unique and fascinating culture. It is with a great sense of pride that I offer my congratulations to Rick.●

OPPOSITION TO ENACTMENT OF IDAHO WILDERNESS ACT HEARD

● Mr. JOHNSTON. Mr. President, over the past several weeks I have received almost 40,000 postcards from individuals all over the country regarding S. 371, the Idaho Wilderness Act. These cards, all of which are indentical, strongly oppose the enactment of S. 371 and urge the Senate to defeat it. There have been no efforts to bring this measure before the Senate and with the significant workload still remaining before the end of the Congress, chances that this bill will pass the Senate this year are slim.

Mr. President, rather than respond to each card individually, I am taking this opportunity to acknowledge the receipt of the cards and to express my appreciation to those who expressed their views on this matter.●

THE CALENDAR

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar items 550 and 552 en bloc; that the committee amendments, where appropriate, be agreed to; that the bills as amended, where amended, be read a third time and passed; that the motion to reconsider the passage of these bills be laid on the table.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. CRANSTON. I further ask unanimous consent that the consideration of these calendar items appear individually in the RECORD and that any statements appear at the appropriate place.

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

AROOSTOOK BAND OF MICMACS SETTLEMENT ACT

The Senate proceeded to consider the bill (S. 1413) to settle all claims of the Aroostook Band of Micmacs resulting from the band's omission from the Maine Indian Claims Settlement Act of 1980, and for other purposes, which had been reported from the Select Committee on Indian Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the part of the bill intended to be inserted are shown in italic.)

S. 1413

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aroostook Band of Micmacs Settlement Act".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS AND POLICY.—Congress hereby finds and declares that:

(1) The Aroostook Band of Micmacs, as represented as of the time of passage of this Act by the Aroostook Micmac Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Micmac Nation which years ago claimed aboriginal title to certain lands in the State of Maine.

(2) The Band was not referred to in the Maine Indian Claims Settlement Act of 1980 because historical documentation of the Micmac presence in Maine was not available at that time.

(3) This documentation does establish the historical presence of Micmacs in Maine and the existence of aboriginal lands in Maine jointly used by the Micmacs and other tribes to which the Micmacs could have asserted aboriginal title but for the extinguishment of all such claims by the Maine Indian Claims Settlement Act of 1980.

(4) The Aroostook Band of Micmacs, in both its history and its presence in Maine, is similar to the Houlton Band of Maliseet Indians and would have received similar treatment under the Maine Indian Claims Settlement Act of 1980 if the information avail-

able today had been available to Congress and the parties at that time.

(5) It is now fair and just to afford the Aroostook Band of Micmacs the same settlement provided to the Houlton Band of Maliseet Indians for the settlement of that Band's claims, to the extent they would have benefited from inclusion in the Maine Indian Claims Settlement Act of 1980.

(6) Since 1820, the State of Maine has provided special services to the Indians residing within its borders, including the members of the Aroostook Band of Micmacs. During this same period, the United States provided few special services to the Band and repeatedly denied that it had jurisdiction over or responsibility for the Indian groups in Maine. In view of this provision of special services by the State of Maine, requiring substantial expenditures by the State of Maine and made by the State of Maine without being required to do so by Federal law, it is the intent of Congress that the State of Maine not be required further to contribute directly to this settlement.

(b) PURPOSE.—It is the purpose of this Act to—

(1) provide Federal recognition of the Band;

(2) provide to the members of the Band the services which the United States provides to Indians because of their status as Indians; and

(3) place $900,000 in a land acquisition fund and property tax fund for the future use of the Aroostook [Band of Micmacs.] *Band of Micmacs; and*

(4) ratify the Micmac Settlement Act, which defines the relationship between the State of Maine and the Aroostook Bank of Micmacs.

SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) The term "Band" means the Aroostook Band of Micmacs, the sole successor to the Micmac Nation as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest. The Aroostook Band of Micmacs is represented, as of the date of enactment of this Act, as to lands within the United States, by the Aroostook Micmac Council.

(2) The term "Band Tax Fund" means the fund established under section 4(b) of this Act.

(3) The term "Band Trust Land" means land or natural resources acquired by the Secretary of the Interior and held in trust by the United States for the benefit of the Band.

(4) The term "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including (but not limited to) minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights.

(5) The term "Land Acquisition Fund" means the fund established under section 4(a) of this Act.

(6) The term "laws of the State" means the constitution, and all statutes, regulations, and common laws of the State of Maine and its political subdivisions and all subsequent amendments thereto or judicial interpretations thereof.

(7) The term "Maine Implementing Act" means the Act entitled "Act to Implement the Maine Indian Claims Settlement" that was enacted by the State of Maine in chapter 732 of the Maine Public Laws of 1979, as amended by chapter 675 of the Maine Public Laws of 1981 and chapter 672 of the Maine Public Laws of 1985, and all subsequent amendments thereto.

(8) The term "Micmac Settlement Act" means the Act entitled "Act to implement the Aroostook Band of Micmacs Settlement Act" that was enacted by the State of Maine in chapter 148 of the Maine Public Laws of 1989, and all subsequent amendments thereto.

[(8)] *(9)* The term "Secretary" means the Secretary of the Interior.

SEC. 4. AROOSTOOK BAND OF MICMACS LAND ACQUISITION AND PROPERTY TAX FUNDS.

(a) LAND ACQUISITION FUND.—There is hereby established in the Treasury of the United States a fund to be known as the Aroostook Band of Micmacs Land Acquisition Fund, into which $900,000 shall be deposited by the Secretary following the appropriation of sums authorized by section 10.

(b) BAND TAX FUND.—(1) There is hereby established in the Treasury of the United States a fund to be known as the Aroostook Band of Micmacs Tax Fund, into which shall be deposited $50,000 in accordance with the provisions of this Act.

(2) Income accrued on the Land Acquisition Fund shall be transferred to the Band Tax Fund until a total of $50,000 has been transferred to the Band Tax Fund under this paragraph. No transfer shall be made under this subsection if such transfer would diminish the Land Acquisition Fund to a balance of less than $900,000.

(3) Whenever funds are transferred to the Band Tax Fund under paragraph (2), the Secretary shall publish notice of such transfer in the Federal Register. Such notice shall specify when the total amount of $50,000 has been transferred to the Band Tax Fund.

(4) The Secretary shall manage the Band Tax Fund in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a), and shall utilize the principal and interest of the Band Tax Fund only as provided in paragraph (5) and section 5(d) and for no other purpose.

(5) Notwithstanding the provisions of title 31, United States Code, the Secretary shall pay out of the Band Tax Fund all valid claims for taxes, payments in lieu of property taxes, and fees, together with any interest and penalties thereon—

(A) for which the Band is determined to be liable;

(B) which are final and not subject to further administrative or judicial review; and

(C) which have been certified by the Commissioner of Finance in the State of Maine as valid claims that meet the requirements of this paragraph.

(c) SOURCE FOR CERTAIN PAYMENTS.—Notwithstanding any other provision of law, if—

(1) the Band is liable to the State of Maine or any county, district, municipality, city, town, village, plantation, or any other political subdivision thereof for any tax, payment in lieu of property tax, or fees, together with any interest and penalties thereon, and

(2) there are insufficient funds in the Band Tax Fund to pay such tax, payment, or fee (together with any interest or penalties thereon) in full,

the deficiency shall be paid by the Band only from income-producing property owned by the Band which is not held in trust for the Band by the United States and the Band shall not be required to pay such tax, payment, or fee (or any interest or penalty thereon) from any other source.

(d) PROCEDURE FOR FILING AND PAYMENT OF CLAIMS.—The Secretary shall, after consultation with the Commissioner of Finance of the State of Maine, and the Band, prescribe written procedures governing the filing and payment of claims under this section.

SEC. 5. AROOSTOOK BAND TRUST LANDS.

(a) IN GENERAL.—Subject to the provisions of section 4, the Secretary is authorized and directed to expend, at the request of the Band, the principal of, and income accruing on, the Land Acquisition Fund for the purposes of acquiring land or natural resources for the Band and for no other purposes. Land or natural resources acquired within the State of Maine with funds expended under the authority of this subsection shall be held in trust by the United States for the benefit of the Band.

(b) ALIENATION.—(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Band may be alienated only by—

(A) takings for public use pursuant to the laws of the State of Maine as provided in subsection (c);

(B) takings for public use pursuant to the laws of the United States; or

(C) transfers made pursuant to an Act or joint resolution of Congress.

All other transfers of land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of such Band shall be void ab initio and without any validity in law or equity.

(2) The provisions of paragraph (1) shall not prohibit or limit transfers of individual use assignments of land or natural resources from one member of the Band to another member of such Band.

(3) Land or natural resources held in trust for the benefit of the Band may, at the request of the Band, be—

(A) leased in accordance with the Act of August 9, 1955 (25 U.S.C. 415 et seq.);

(B) leased in accordance with the Act of May 11, 1938 (25 U.S.C. 396a et seq.);

(C) sold in accordance with section 7 of the Act of June 25, 1910 (25 U.S.C. 407);

(D) subjected to rights-of-way in accordance with the Act of February 5, 1948 (25 U.S.C. 323 et seq.);

(E) exchanged for other land or natural resources of equal value, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary for deposit in the land acquisition fund for the benefit of the Band, as the circumstances require, so long as payment does not exceed 25 percent of the total value of the interests in land to be transferred by the Band; and

(F) sold, only if at the time of sale the Secretary has entered into an option agreement or contract of sale to purchase other lands of approximate equal value.

(c) CONDEMNATION BY STATE OF MAINE AND POLITICAL SUBDIVISIONS THEREOF.—(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Band may be condemned for public purposes by the State of Maine, or any political subdivision thereof, only upon such terms and conditions as shall be agreed upon in writing between the State and such Band after the date of enactment of this Act.

(2) The consent of the United States is hereby given to the State of Maine to further amend the [Maine Implementing Act] *Micmac Settlement Act* for the purpose of

embodying the agreement described in paragraph (1).

(d) ACQUISITION.—(1) Lands and natural resources may be acquired by the Secretary for the Band only if the Secretary has, at any time prior to such acquisition—

(A) transmitted a letter to the Secretary of State of the State of Maine stating that the Band Tax Fund contains $50,000; and

(B) provided the Secretary of State of the State of Maine with a copy of the procedures for filing and payment of claims prescribed under section 4(d).

(2)(A) No land or natural resources may be acquired by the Secretary for the Band until the Secretary files with the Secretary of State of the State of Maine a certified copy of the deed, contract, or other conveyance setting forth the location and boundaries of the land or natural resources to be acquired.

(B) For purposes of subparagraph (A), a filing with the Secretary of State of the State of Maine may be made by mail and, if such method of filing is used, shall be considered to be completed on the date on which the document is properly mailed to the Secretary of State of the State of Maine.

(3) Notwithstanding the provisions of the first section of the Act of August 1, 1888 (40 U.S.C. 257) and the first section of the Act of February 26, 1931 (40 U.S.C. 258a), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General of the United States, in the United States and condemn interests adverse to the ostensible owner.

(4)(A) When trust or restricted land or natural resources of the Band are condemned pursuant to any law of the United States other than this Act, the proceeds paid in compensation for such condemnation shall be deposited into the Land Acquisition Fund and shall be reinvested in acreage within unorganized or unincorporated areas of the State of Maine. When the proceeds are reinvested in land whose acreage does not exceed that of the land taken, all the land shall be acquired in trust. When the proceeds are invested in land whose acreage exceeds the acreage of the land taken, the Band shall designate, with the approval of the United States, and within 30 days of such reinvestment, that portion of the land acquired by the reinvestment, not to exceed the area taken, which shall be acquired in trust. The land acquired from the proceeds that is not acquired in trust shall be held in fee by the Band. The Secretary shall certify, in writing, to the Secretary of State of the State of Maine the location, boundaries, and status of the land acquired from the proceeds.

(B) The State of Maine shall have initial jurisdiction over condemnation proceedings brought under this section. The United States shall be a necessary party to any such condemnation proceedings. After exhaustion of all State administrative remedies, the United States is authorized to seek judicial review of all relevant matters involved in such condemnation proceedings in the courts of the United States and shall have an absolute right of removal, at its discretion, over any action commenced in the courts of the State.

(5) Land or natural resources acquired by the Secretary in trust for the Band shall be managed and administered in accordance with terms established by the Band and agreed to by the Secretary in accordance with section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f) or other applicable law.

SEC. 6. LAWS APPLICABLE.

(a) FEDERAL RECOGNITION.—Federal recognition is hereby extended to the Aroostook Band of Micmacs. The Band shall be eligible to receive all of the financial benefits which the United States provides to Indians and Indian tribes to the same extent, and subject to the same eligibility criteria, generally applicable to other federally recognized Indians and Indian tribes.

(b) APPLICATION OF FEDERAL LAW.—For the purposes of application of Federal law, the Band and its lands shall have the same status as other tribes and their lands accorded Federal recognition under the terms of the Maine Indian Claims Settlement Act of 1980.

(c) ELIGIBILITY FOR SPECIAL SERVICES.—Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, any member of the Band in Aroostook County, Maine, shall be eligible for such services without regard to the existence of a reservation or the residence of members of the Band on or near a reservation.

(d) AGREEMENTS WITH STATE REGARDING JURISDICTION.—The State of Maine and the Band are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by, or held in trust for the benefit of, the Band or any member of the Band. *The consent of the United States is hereby given to the State of Maine to amend the Micmac Settlement Act for this purpose: Provided, That such amendment is made with the agreement of the Aroostook Band of Micmacs.*

SEC. 7. TRIBAL ORGANIZATION.

(a) IN GENERAL.—The Band may organize for its common welfare and adopt an appropriate instrument in writing to govern the affairs of the Band when acting in its governmental capacity. Such instrument and any amendments thereto must be consistent with the terms of this Act. The Band shall file with the Secretary a copy of its organic governing document and any amendments thereto.

(b) MEMBERS.—For purposes of benefits provided by reason of this Act, only persons who are citizens of the United States may be considered members of the Band except persons who, as of the date of enactment of this Act, are enrolled members on the Band's existing membership roll, and direct lineal descendants of such members. Membership in the Band shall be subject to such further qualifications as may be provided by the Band in its organic governing document, or amendments thereto, subject to approval by the Secretary.

SEC. 8. IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT.

For the purposes of this section, the Band is an "Indian tribe" within the meaning of section 4(8) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(8)), except that nothing in this section shall alter or affect the jurisdiction of the State of Maine over child welfare matters as provided by the Maine Indian Claims Settlement Act of 1980.

SEC. 9. FEDERAL FINANCIAL AID PROGRAMS UNAFFECTED BY PAYMENTS UNDER THIS ACT.

(a) STATE OF MAINE.—No payments to be made for the benefit of the Band pursuant to this Act shall be considered by any agency or department of the United States in determining or computing the eligibility of the State of Maine for participation in any financial aid program of the United States.

(b) BAND AND MEMBERS OF THE BAND.—(1) The eligibility for, or receipt of, payments from the State of Maine by the Band or any of its members shall not be considered by any department or agency of the United States in determining the eligibility of, or computing payments to, the Band or any of the members of the Band under any Federal financial aid program.

(2) To the extent that eligibility for the benefits of any Federal financial aid program is dependent upon a showing of need by the applicant, the administering agency shall not be barred by this subsection from considering the actual financial situation of the applicant.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $900,000 for the fiscal year 1990 for transfer to the Aroostook Band of Micmacs Land Acquisition Fund.

SEC. 11. INTERPRETATION.

In the event of a conflict of interpretation between the provisions of the Maine Implementing Act, *the Micmac Settlement Act*, or the Maine Indian Claims Settlement Act of 1980 and this Act, the provisions of this Act shall govern.

SEC. 12. LIMITATION OF ACTIONS.

No provision of this Act may be construed to confer jurisdiction to sue, or to grant implied consent to the Band to sue, the United States or any of its officers with respect to the claims extinguished by the Maine Indian Claims Settlement Act of 1980.

Mr. COHEN. Mr. President, I am very pleased that the Senate is set to approve S. 1413, legislation to settle the claims of the Aroostook Band of Micmacs. Passage of this legislation will correct an unintentional oversight that occurred when the Maine Indian Claims Settlement Act was signed into law in 1980. With the enactment of MICSA, the Micmac Tribe of Maine was excluded from the settlement's provisions despite the fact that it was an existing tribe with a claim similar to that put forward by another Maine tribe, the Houlton Band of Maliseets, which was included in the 1980 settlement. For a number of legitimate reasons, the Micmac's claim was not presented at the time of the negotiations on the Maine settlement bill and so it was not included in the final act.

While this might be seen as a minor slight, the impact on the Micmacs was substantial. With passage of the 1980 act, the State of Maine withdrew its own tribal assistance programs, from which the Micmacs had received funds. To make matters worse, however, the Micmacs also were cut off from Federal funding and have been unable to benefit from various programs like

health services, child welfare, and education. For a poor tribe whose members are basketmakers and migrant laborers, the omission from the 1980 act has made it extremely difficult for the tribe to tackle its unemployment, illiteracy, and health problems.

S. 1413 aims to remedy this unfortunate situation by providing the Aroostook Band of Micmacs with Federal recognition and a $900,000 land trust fund so that a permanent land base can be secured. It is a bill that simply addresses the basic unfairness which has resulted from the enactment of the original Maine Settlement Act.

This bill has gained significant support in Maine, having been memorialized by the Maine State Legislature and strongly supported by the State's attorney general. Legislation to implement the Federal law in Maine has already been approved by the legislature. It is obvious that the need for addressing this issue is quite compelling.

I want to add a few words of thanks to several people who helped in securing passage of this bill in the Senate. The first is my dear colleague, Senator INOUYE, chairman of the Select Committee on Indian Affairs, whose support for this bill has been invaluable. In addition, Pete Taylor of the committee's staff deserves thanks for his wise counsel and guidance in the drafting and consideration of the bill.

Finally, I must commend Becca Yturregui and Reed Dyer, students at Winthrop High School in Winthrop, ME, for revealing, in a most eloquent fashion, the real needs of the Micmacs and the importance of bringing to the tribe a fair resolution of this issue. Becca and Reed, at the urging of their teacher, Linda McKee, organized a group at Winthrop High called Students Organized to Support Micmacs. Thus began a kind of cultural exchange program between the Winthrop students, who lived hundreds of miles from the Micmacs, and their Micmac peers. From all accounts, the program has been an unqualified success. Becca and Reed traveled to Washington, DC, in March to testify at the hearings on S. 1413, and their strong message of support had a great impact on all who listened.

The Senate is now poised to follow Becca and Reed's lead and approve S. 1413. It is only fair that we do so, and I hope the bill will be enacted into law in the near future so that the Aroostook Band of Micmacs can obtain the benefits that have been accorded other Maine tribes.

I thank my colleagues for their support of this legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (S. 1413) was passed.

HOUSING AND COMMUNITY DEVELOPMENT ACT AMENDMENTS

The Senate proceeded to consider the bill (S. 2354) to amend the Housing and Community Development Act of 1974 to make technical corrections for grants to Indian tribes, and for other purposes.

Mr. McCAIN. Mr. President, I am pleased that the Senate is moving to prompt consideration of S. 2354, my bill making technical corrections necessitated by the enactment of the Housing and Urban Development Reform Act of 1989.

When the HUD Reform Act was adopted, the authority to make community development block grants to Indian tribes was inadvertently eliminated. There was no intention to do so; in fact, we have appropriated $27 million for this purpose for the current year.

This bill will restore the authority to make such grants under a 1 percent set-aside for Indian tribes. It is supported by the Department of Housing and Urban Development, and was approved unanimously by the Select Committee on Indian Affairs.

I have sought to move this bill expeditiously because applications by tribes for funding have already been received and are under review in regional HUD offices. Prompt action will allow the most meritorious applications for economic development projects on reservations to be soon aproved, and construction or rehabilitation work to begin.

I thank all of my colleagues for their support of S. 2354. I hope that the House will move swiftly and favorably on S. 2354.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

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

SECTION 1. AMENDMENTS TO HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.

(a)(1) Subsection (c) of section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)) is amended by inserting immediately after "Federal assistance provided" the following: "to States and units of general local government".

(2) Subsection (a) of section 106 of such Act (42 U.S.C. 5306(a)) is amended to read as follows:

"(a)(1) For each fiscal year, of the amount approved in an appropriation Act under section 103 for grants in any year, the Secretary shall reserve for grants to Indian tribes not less than one percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment. Notwithstanding any other provision of this Act, such grants to Indian tribes shall not be subject to the requirements of section 104, except subsections (f), (g), and (k) of such section.

"(2) After reserving such amounts for Indian tribes, the Secretary shall allocate amounts provided for use in accordance with section 107.

"(3) Of the amount remaining after allocations pursuant to paragraphs (1) and (2), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorid, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) and (2) of subsection (b).".

(3) Paragraphs (1) and (2) of subsection (b) of section 106 of such Act (42 U.S.C. 5306(b)) are each amended by deleting "after taking into account the set-aside for Indian tribes under paragraph (7), the" and inserting in lieu thereof "The".

(4) Paragraph (7) of subsection (b) of section 106 of such Act (42 U.S.C. 5306(b)) is repealed.

(5) Paragraph (1) of subsection (d) of section 106 of such Act (42 U.S.C. 5306(d)) is amended by deleting "section 107 and section 119" and inserting in lieu thereof "paragraphs (1) and (2) of subsection (a) of section 106".

(6) Paragraph (2) of subsection (e) of section 107 of such Act (42 U.S.C. 5307(e)) is amended by inserting immediately after "this section" a comma and the following: "section 106(a)(1),".

SEC. 2. AMENDMENTS TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT.

(a) Subsection (c) of section 702 of the Department of Housing and Urban Development Reform Act of 1989 is repealed.

(b) Subsection (e) of section 702 of such Act is amended by deleting "1991" and inserting in lieu thereof "1990".

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 515, 548, 549 en bloc; that the Committee amendments, where appropriate, be agreed to; that the bills, as amended, where amended, be deemed read a third time and passed; that the motion to reconsider the passage of these bills be laid upon the table.

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

Mr. CRANSTON. Mr. President, I ask unanimous consent that any statements relating to these calendar items appear at the appropriate place in the RECORD, and that the consideration of these items appear individually in the RECORD.

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

DESIGNATIONS OF COMPONENTS OF THE WILD AND SCENIC RIVERS SYSTEM

The bill (H.R. 644) to amend the Wild and Scenic Rivers Act by designating segments of the East Fork of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System, was considered, ordered to a third reading, read the third time, and passed.

ENERGY POLICY AND CONSERVATION ACT AMENDMENTS

The Senate proceeded to consider the bill (S. 2088) to amend the Energy Policy and Conservation Act to extend the authority for titles I and II, and for other purposes; which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause, and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

That this Act may be referred to as the "Energy Policy and Conservation Act Amendments of 1990";

SEC. 2. EXTENSION OF AUTHORITY.

The Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) is amended—

(a) in section 104(b)(1) by striking out "August 15, 1990" and inserting in lieu thereof "September 30, 1993";

(b) in section 171, by striking out "August 15, 1990" each place it appears and inserting in lieu thereof "September 30, 1993"; and

(c) in section 281, by striking out the term "August 15, 1990" each place it appears and inserting in lieu thereof "September 30, 1993";

SEC. 3. ENLARGEMENT OF SPR TO ONE BILLION BARRELS.

(a) Section 159 of the Energy Policy and Conservation Act (Public Law 94-163), as amended (42 U.S.C. 6239), is amended by adding the following new subsections:

"(i) No later than eighteen months after enactment of the Energy Policy and Conservation Act Amendments of 1990, the Secretary shall transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of negotiations undertaken pursuant to part C. The report shall—

"(1) describe the terms of any contracts negotiated pursuant to part C and any cost savings that would result from such contracts relative to the costs of acquisition pursuant to part B.

"(2) give estimates, or ranges of estimates, of any cost savings that would likely result from additional contracts that could be negotiated pursuant to part C for completion of the storage of one billion barrels of petroleum products in the Reserve relative to the costs of acquisition pursuant to part B.

"(j) No later than twenty-four months after enactment of the Energy Policy and Conservation Act Amendments of 1990, the Secretary shall amend the Strategic Reserve Plan to prescribe plans for completion of storage of one billion barrels of petroleum products in the Reserve. Such amendment shall comply with the provisions of section 159 and shall detail the Secretary's plans for the design, construction, leasing or other acquisition, and fill of storage and related facilities of the Reserve to achieve such one billion barrels of storage. Such amendment shall not be subject to the congressional review procedures contained in section 551. In assessing alternatives in the development of such plans, the Secretary shall consider leasing privately owned storage facilities.".

(b) Section 160 of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6240), is amended—

(1) by substituting in paragraph (c)(3)—

(A) the term "fiscal year 1993" for the term "fiscal years 1988 and 1989", and

(B) the term "1,000,000,000" for the term "at least 750,000,000", and

(2) in paragraph (d)(1)—

(A) by substituting in subparagraph (A) the term "1,000,000,000" for the term "750,000,000", and

(B) in inserting before the period at the end of subparagraph (B) the words "and the Secretary has amended the Strategic Petroleum Reserve Plan as required by section 159(j).".

SEC. 4. PREDRAWDOWN DIVERSION OF SPR OIL.

(a) Section 161 of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6241), is amended by adding the following new subsection:

"(h)(1) If the President finds that a severe energy supply interruption may be imminent, then the execution of new contracts for petroleum products for injection into the Strategic Petroleum Reserve may be curtailed or suspended for a period not to exceed thirty days, and the provisions of sections 160 (c) and (d) shall not apply: *Provided, however,* That the President may extend such finding for additional thirty-day periods if he finds that the conditions that justified the initial finding still exist.

"(2) The period during which such Presidential findings is in effect, and the quantity of any petroleum products involved, shall be disregarded in applying the provisions of such subsections for periods following the effective period of such finding.

"(3) When such a finding is in effect, the Secretary is authorized to sell, in accordance with rules or regulations which he shall promulgate, any petroleum products acquired for storage in, but not injected into, the Strategic Petroleum Reserve.".

(b) Section 167(b)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6247(b)(3)) is amended by inserting a comma and the words "and from the sale of petroleum products under section 161(h)" before the period at the end of the section.

(c) Section 167(d) of the Energy Policy and Conservation Act (42 U.S.C. 6247(d) is amended by inserting a comma and the words "and from the sale of petroleum products under section 161(h)" after the words "such section".

SECTION 5. LEASING AUTHORITY.

Title I of the Energy Policy and Conservation Act is amended by adding the following new part after part B and redesignating parts accordingly:

"PART C—SUPPLEMENTARY OIL RESERVE

"DECLARATION OF POLICY

"SEC. 171. (a) The Congress finds that budgetary constraints have hindered completion of a one billion barrel Strategic Petroleum Reserve, and that establishment of a Supplementary Oil Reserve can help diminish the vulnerability of the United States to the effects of a severe energy supply interruption, and contribute to the effectiveness of the international energy program.

"(b)(1) It is hereby declared to be the policy of the United States, to the extent consistent with the Strategic Petroleum Reserve program, to encourage supplementation of the Strategic Petroleum Reserve and other domestic petroleum product stocks by contracting for Supplementary Oil Reserve storage of petroleum products in, or readily accessible to, the United States by private firms or foreign governments in facilities not owned by the United States, and by contracting for Supplementary Oil Reserve storage in Government-owned facilities.

"(2) The purpose of this part is to add to the Secretary's existing authority under part B to contract for petroleum products and storage and related facilities for the Strategic Petroleum Reserve by authorizing the Secretary to contract for Supplementary Oil Reserve storage in facilities other than those of the Strategic Petroleum Reserve, and for Supplementary Oil Reserve storage, in otherwise unused Strategic Petroleum Reserve storage facilities, of petroleum products owned by any person or government.

"(3) It is the policy of the United States that the authorities provided by this part shall be used as a complement to the Strategic Petroleum Reserve and not in any manner which reduces the effectiveness of, or diminishes the control of the President and the Secretary over, the drawndown or distribution of the Strategic Petroleum Reserve.

"DEFINITIONS

"SEC. 172. Terms used in this part have the same meaning that they have in part B.

"CONTRACTING FOR PETROLEUM PRODUCTS AND FACILITIES

"SEC. 173. (a) The Secretary may contract for Supplementary Oil Reserve storage, in storage facilities other than those of the Strategic Petroleum Reserve, of petroleum products not owned by the United States.

"(b) Petroleum products stored under such a contract are subject to the Secretary's authority under section 161 (except sections 161(e) and (g)) to draw down and distribute petroleum products, as if those petroleum products were in the Strategic Petroleum Reserve.

"USE OF STRATEGIC PETROLEUM RESERVE FACILITIES

"SEC. 174. (a) The Secretary may contract for Supplementary Oil Reserve storage, in otherwise unused Strategic Petroleum Reserve facilities, of petroleum products not owned by the United States, to the extent consistent with the purposes of part B and of this part. A contract entered into under this section shall not limit the discretion of the President or the Secretary to conduct a drawdown and distribution of the Strategic Petroleum Reserve.

"(b) Petroleum products stored under any such contract are subject to the authority of the Secretary under section 161 (except sections 161(e) and (g)) to draw down and distribute petroleum products, as if those petroleum products were in the Strategic Petroleum Reserve.

"(c) The Secretary may store petroleum products under this section with or without charge, or pay a fee for their storage.

"STRATEGIC PETROLEUM RESERVE TIE-IN

"SEC. 175. (a) If the Secretary determines that one or more contracts or proposed contracts for Supplementary Oil Reserve storage of petroleum products under section 173 or 174 would for their duration achieve benefits comparable to equivalent storage of petroleum products in the Strategic Petroleum Reserve and that, because of budgetary constraints, equivalent storage of petroleum products in the Strategic Petroleum Reserve cannot be accomplished, the Secretary may so notify each House of the Congress, including in his notification the same information required under section 154(e) with regard to storage and related facilities proposed to be included, or petroleum products proposed to be stored, in the Strategic Petroleum Reserve. From sixty calendar days after notification, all petroleum products actually stored under such a contract shall be counted as part of the Strategic Petroleum Reserve for purposes of part B.

"(b) Petroleum products counted as part of the Strategic Petroleum Reserve under this section, if otherwise eligible, qualify to satisfy an applicable provisions for Regional Petroleum Reserves or noncontinuous storage under part B.

"(c) Notwithstanding any other law, the expiration of a contract for the storage of petroleum products under section 173 or 174 is not a violation of any requirement concerning the size or rate of fill of the Strategic Petroleum Reserve. For purposes of section 160(d), the reduction in the quantity of crude oil in storage in the Strategic Petroleum Reserve attributable to expiration of such a contract is considered to occur between the end of the fiscal year in which expiration actually occurs and the beginning of the following fiscal year.

"IMPLEMENTATION

"SEC. 176. (a) Notwithstanding subsection 160(c), the Secretary may use, for the acquisition of petroleum products or of petroleum product storage under this part, without further appropriation, funds available for the planning, administration, acquisition, and construction of storage and related facilities of the Strategic Petroleum Reserve, and funds available for the acquisition, transportation, and injection of petroleum products into the Strategic Petroleum Reserve. For the purposes of this section, the acquisition of petroleum products includes payments of amounts due upon the expiration, termination or other conclusion of the acquisition contract.

"(b) The Secretary, in any contract entered into under this part, may provide for the acquisition by purchase or exchange of stored petroleum products by the United States, for storage in, or use in connection with, a drawdown and distribution of petroleum products from the Strategic Petroleum Reserve.

"(c) An amendment of the Strategic Petroleum Reserve Plan is not required for any action taken under this part.

"(d) Petroleum products stored and facilities used in the Supplementary Oil Reserve have the same status as petroleum products and facilities owned by the United States for all purposes associated with the exercise of the laws of any State or political subdivision thereof.

"(e) Contracts under this part may be of such duration as the Secretary considers necessary or appropriate.

"(f) For purposes of any law or regulation affecting the solicitation, negotiation, execution or performance of contracts, contractual action pursuant to this part need not comply with applicable laws and regulations (other than those directly relating to safety, health or the environment) governing the construction of facilities, or the acquisition or provision of services or property.

"(g) Upon the expiration, termination or other conclusion of a contract with a foreign government or agency thereof entered into under section 173 or 174, the President, notwithstanding any other law, may permit export of crude oil which has been stored pursuant to such contract.

"(h) The Secretary may agree to binding arbitration of disputes under any contract, including a contract with a foreign government or agency thereof, entered into pursuant to section 173 or 174.

"(i) Section 3(c) of the Trade Agreements Act of 1979 (19 U.S.C. 2504(c)) shall apply to a bill submitted by the President in implementation of an international agreement or other agreement negotiated in fulfillment of this part, as if the international agreement of other agreement were an agreement approved under section 2(a) of that Act when the President determines that it is necessary or appropriate to amend, repeal or enact a statute of the United States to implement a requirement of, or amendment to, the international agreement or other agreement.".

SEC. 6. EXEMPTION FROM INTERSTATE COMMERCE ACT.

Section 159 of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6239), is amended by adding the following new subsection:

"(k) A storage or related facility of the Strategic Petroleum Reserve owned by or leased to the United States is not subject to the Interstate Commerce Act."

SEC. 7. AUTHORITY TO ALLOW EXCHANGE OF SPR OIL.

Section 161 of the Energy Policy and Conservation Act, as amended (42 U.S.C 6241), is amended by adding the following new subsection:

"(h) Notwithstanding any other law, the President may permit any petroleum products withdrawn from the Strategic Petroleum Reserve in accordance with this section to be sold and delivered for refining or exchange outside of the United States, in connection with an agreement for the delivery of refined petroleum products to the United States.".

SEC. 8 CONFORMING AMENDMENTS.

The Energy Policy and Conservation Act is amended by inserting in the table of contents at the end of Title I—Matters Related to Domestic Supply Availability, the following items:

"PART C—SUPPLEMENTARY OIL RESERVE

"Sec. 171. Declaration of Policy.
"Sec. 172. Definitions.
"Sec. 173. Contracting for Petroleum Products and Facilities.
"Sec. 174. Use of Strategic Petroleum Reserve Facilities.
"Sec. 175. Strategic Petroleum Reserve Tie-In.
"Sec. 176. Implementation.".

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (S. 2088) was passed.

JUAN BAUTISTA DE ANZA NATIONAL HISTORIC TRAIL

The Senate proceeded to consider the bill (H.R. 1159) to amend the National Trails System Act by designating the Juan Bautista de Anza National Historic Trail, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment.

On page 2, line 18, strike "Interior.", and insert the following: "Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Juan Bautista de Anza National Historic Trail without the consent of the owners thereof.".

So as to make the bill read:

H.R. 1159

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 "Juan Bautista de Anza National Historic Trail Act".

SEC. 2. JUAN BAUTISTA DE ANZA NATIONAL HISTORIC TRAIL.

(a) DESIGNATION.—Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end thereof the following:

"(17) The Juan Bautista de Anza National Historic Trail, a trail comprising the overland route traveled by Captain Jaun Bautista de Anza of Spain during the years 1775 and 1776 from Sonora, Mexico, to the vicinity of San Francisco, California, of approximately 1,200 miles through Arizona and California, as generally described in the report of the Department of the Interior prepared pursuant to subsection (b) entitled 'Juan Bautista de Anza National Trail Study, Feasibility Study and Environmental Assessment' and dated August 1986. A map generally depicting the trail shall be on file and available for public inspection in the Office of the Director of the National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Juan Bautista de Anza National Historic Trail without the consent of the owner thereof. In implementing this paragraph, the Secretary shall encourage volunteer trail groups to participate in the development and maintenance of the trail.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 10(c)(2) of the National Trails System Act (16 U.S.C. 1249(c)) is amended by striking the first sentence and inserting: "Except as otherwise provided in this Act, there is authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by section 5(a).".

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read the third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 1159), as amended, was passed.

YOSEMITE NATIONAL PARK CENTENNIAL MEDAL ACT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 537, S. 2388, Yosemite National Park commemorative medals bill.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2388) to provide for the striking of medals in commemoration of the centennial of Yosemite National Park.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coin Act of 1990".

TITLE I—YOSEMITE CENTENNIAL MEDALS

SEC. 101. SHORT TITLE.

This title may be cited as the "Yosemite National Park Centennial Medal Act".

SEC. 102. YOSEMITE NATIONAL PARK CENTENNIAL MEDALS.

(a) STRIKING AND DESIGN OF MEDALS.—In commemoration of the centennial of Yosemite National Park in 1990, the Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall strike medals with suitable emblems, devices, and inscriptions capturing the scenic and historic significance of the park. The design of the medals shall be determined by the Secretary in consultation with the Secretary of the Interior and the Commission of Fine Arts.

(b) SALE OF MEDALS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the medals issued under this title shall be sold by the Secretary at a price equal to the cost of designing and issuing such medals (including labor, materials, dies, use of machinery, and overhead expenses) and the surcharge provided for in paragraph (3).

(2) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(3) SURCHARGES.—All sales shall include a surcharge of $2 each.

SEC. 103. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of medals issued under this title shall be promptly paid by the Secretary to a permanent endowment fund for the benefit of Yosemite National Park to be administered by the National Park Foundation. The net income from the fund shall be paid to the Secretary of the Interior for purposes of funding special supplemental projects relating to back country trail development and rehabilitation, and the preservation of Sequoia groves within the boundaries of Yosemite National Park.

SEC. 104. SALE OF MEDALS IN NATIONAL PARK FACILITIES.

The Secretary and the Secretary of the Interior shall enter into a memorandum of agreement to allow—

(1) the Secretary to deliver medals to the Secretary of the Interior; and

(2) the Secretary of the Interior to provide for the sale of the medals in national park facilities.

SEC. 105. METAL CONTENT AND SIZE OF MEDALS.

The medals authorized to be struck and delivered under this title shall be struck in bronze and in the size determined by the Secretary in consultation with the Secretary of the Interior.

SEC. 106. NATIONAL MEDALS.

The medals authorized by this title are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 107. EXAMINATION OF RECORDS.

The Comptroller General of the United States shall have the right to examine all books, documents, and other records of the National Park Foundation which are related to the medals authorized by this title.

TITLE II—GENERAL PROVISIONS

SEC. 201. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. 202. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first designated coin shall have a design commemorating the two hundredth anniversary of the United States Constitution for a period of 1 years after it is first issued. After that 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. Such selection, and the minting and issuance of the first selected coin shall be made not later than 1 year after the date of the enactment of this paragraph. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 203. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollar, quarter, dime coin, 5-cent coin, and one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 204. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary of the Treasury and shall be done at the rate of one or more coins per year, to be phased in over 6 years after the date of enactment of this Act. In selecting new designs, the Secretary of the Treasury shall consider, among other factors, thematic representatives of the following constitutional concepts: freedom of speech and assembly; freedom of the press; right to due process of laws; right to a trial by jury; right to equal protection under the law; right to vote; themes from the Bill of Rights; and separation of powers, including the independence of the judiciary. The designs shall be selected by the Secretary of the Treasury upon consultation with the United States Commission on Fine Arts.

SEC. 205. REDUCTION OF THE NATIONAL DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to provide for the striking of medals in commemoration of the centennial of Yosemite National Park, and for other purposes."

AMENDMENT NO. 1682

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

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 1682.

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

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

The amendment is as follows:

At the end of S. 2388, add the following new title:

TITLE III—SILVER PROOF SETS

SEC. 301. SHORT TITLE.

This title may be cited as the "Silver Coin Proof Sets".

SEC. 302. AMENDMENT TO TITLE 31, UNITED STATES CODE.

Subsection (a) of section 5132 of title 31, United States Code is amended by re-designating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2)(A) In addition to the proof sets under paragraph (1), the Secretary shall annually sell to the public directly and by mail, sets of proof coins minted under paragraphs (1) through (6) of section 5112(a) of this title in which, notwithstanding any other provision of law, the coins described in paragraphs (1), (2), (3), and (4) of section 5112(a), shall be an alloy of 90 percent silver and 10 percent copper. All coins under this paragraph shall have a Mint mark indicating their place of manufacture. For purposes of subsection (a)(3) of section 5111 of this title,

and paragraph (1) of this subsection, all coins minted under this paragraph shall be considered numismatic items.

"(B) The Secretary shall obtain silver for coins authorized under this title by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. et seq.). At such time as the silver stockpile is depleted, the Secretary shall acquire silver for such coins by purchase of silver mined from natural deposits in the United States, or in a territory or possession of the United States within one year after the month in which the ore from which it is derived was mined. The Secretary shall pay not more than the average world price for the silver. The Secretary may issue such regulations as may be necessary to carry out this paragraph.

"(C) The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code."

SEC. 303. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

"(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

"(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity. No firm shall be considered a Federal Contractor for purposes of 41 C.F.R. part 60 et seq. as a result of participating as a United States Mint coin consignee."

Mr. McCLURE. Mr. President, the amendment I offer has been agreed to by the Senate and the House. However, due to circumstances beyond my control, it has not yet been enacted. Unfortunately, to my knowledge, there is no opposition to this measure, it simply dies because it has been attached to vehicles which are defeated for other reasons. Therefore, I hope it will make it this time and will not get caught up in an unrelated debate.

Mr. President, this amendment is very simple. It directs the Secretary of the Treasury to issue coin proof sets which are 90 percent silver. Under existing law, proof sets are issued which include the dollar, half dollar, quarter, dime, nickel, and penny. This amendment requires that the dollar, half dollar, quarter, and dime will be 90 percent silver and 10 percent copper. These proof sets will be in addition to the proof sets currently issued under section 5132 of title 31.

A year ago, a poll was conducted in the Coin World paper. Over 1,100 responses were received. Of those, 92.3 percent said they would purchase proof sets containing 90 percent silver coins, even though the prices would be greater than the current proof set prices. Responses were from collectors, investors, dealers, and others.

Mr. President, I believe it is clear that the American public would like the opportunity to purchase proof coins which are 90 percent silver. Therefore, I hope this legislation will be enacted quickly and sent to the President for his signature.

The PRESIDING OFFICER. The question in on agreeing to the amendment.

The amendment (No. 1682) was agreed to.

Mr. CRANSTON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

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

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2388

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 "Coin Act of 1990".

TITLE I—YOSEMITE CENTENNIAL MEDALS

SEC. 101. SHORT TITLE.

This title may be cited as the "Yosemite National Park Centennial Medal Act".

SEC. 102. YOSEMITE NATIONAL PARK CENTENNIAL MEDALS.

(a) STRIKING AND DESIGN OF MEDALS.—In commemoration of the centennial of Yosemite National Park in 1990, the Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall strike medals with suitable emblems, devices, and inscriptions capturing the scenic and historic significance of the park. The design of the medals shall be determined by the Secretary in consultation with the Secretary of the Interior and the Commission of Fine Arts.

(b) SALE OF MEDALS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the medals issued under this title shall be sold by the Secretary at a price equal to the cost of designing and issuing such medals (including labor, materials, dies, use of machinery, and overhead expenses) and the surcharge provided for in paragraph (3).

(2) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(3) SURCHARGES.—All sales include a surcharge of $2 each.

SEC. 103. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of medals issued under this title shall be promptly paid by the Secretary to a permanent endowment fund for the benefit of Yosemite National Park to be administered by the National Park Foundation. The net income from the fund shall be paid to the Secretary of the Interior for purposes of funding special supplemental projects relating to back country trail development and rehabilitation, and the preservation of Sequoia groves within the boundaries of Yosemite National Park.

SEC. 104. SALE OF MEDALS IN NATIONAL PARK FACILITIES.

The Secretary and the Secretary of the Interior shall enter into a memorandum of agreement to allow—

(1) the Secretary to deliver medals to the Secretary of the Interior; and

(2) the Secretary of the Interior to provide for the sale of the medals in national park facilities.

SEC. 105. METAL CONTENT AND SIZE OF MEDALS.

The medals authorized to be struck and delivered under this title shall be struck in bronze and in the size determined by the Secretary in consultation with the Secretary of the Interior.

SEC. 106. NATIONAL MEDALS.

The medals authorized by this title are national medal for purposes of chapter 51 of title 31, United States Code.

SEC. 107. EXAMINATION OF RECORDS.

The Comptroller General of the United States shall have the right to examine all books, documents, and other records of the National Park Foundation which are related to the medals authorized by this title.

TITLE II—GENERAL PROVISIONS

SEC. 201. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. 202. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end of the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first designated coin shall have a design commemorating the two hundredth anniversary of the United States Constitution for a period of 2 years after it is first issued. After that 2-year period, the bicentennial coin shall ahve its design changed in accordance with the provisions of this subsection. Such selection, and the minting and issuance of the first selected coin shall be made not later than 1 year after date of the enactment of this paragraph. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 203. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end of the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollar, quarter, dime coin, 5-cent coin, and one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 204. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary of the Treasury and shall be done at the rate of one or more coins per year, to be phased in over 6 years after the date of enactment of this Act. In selecting new designs, the Secretary of the Treasury shall consider, among other factors, thematic representations of the following constitutional

concepts: freedom of speech and assemply; freedom of the press; right to due process of law; right to a trial by jury; right to equal protection under the law; right to vote; themes from the Bill of Rights; and separation of powers, including the independence of the judiciary. The designs shall be selected by the Secretary of the Treasury upon consultation with the United States Commission on Fine Arts.

SEC. 205. REDUCTION OF THE NATIONAL DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

TITLE III—SILVER PROOF SETS

SEC. 301. SHORT TITLE.

This title may be cited as the "Silver Coin Proof Sets".

SEC. 302. AMENDMENT TO TITLE 31, UNITED STATES CODE.

Subsection (a) of section 5132 of title 31, United States Code is amended by re-designating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2)(A) In addition to the proof sets under paragraph (1), the Secretary shall annually sell to the public directly and by mail, sets of proof coins minted under paragraphs (1) through (6) of section 5112(a) of this title in which, notwithstanding any other provision of law, the coins described in paragraphs (1), (2), (3), and (4) of section 5112(a), shall be an alloy of 90 percent silver and 10 percent copper. All coins under this paragraph shall have a Mint mark indicating their place of manufacture. For purposes of subsection (a)(3) of section 5111 of this title, and paragraph (1) of this subsection, all coins minted under this paragraph shall be considered numismatic items.

"(B) The Secretary shall obtain silver for coins authorized under this title by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 USC, 98 et seq.). At such time as the silver stockpile is depleted, the Secretary shall acquire silver for such coins by purchase of silver mined from natural deposits in the United States, or in a territory or possession of the United States within one year after the month in which the ore from which it is derived was mined. The Secretary shall pay not more than the average world price for the silver. The Secretary may issue such regulations as may be necessary to carry out this paragraph."

"(C) The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 303. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

"(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

"(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity. No firm shall be considered a Federal contractor for purposes of 41 C.F.R. part 60 et seq. as a result of participating as a United States Mint coin consignee.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

AUTHORITY FOR COMMITTEES TO FILE REPORTS DURING RECESS OR ADJOURNMENT

Mr. CRANSTON. Mr. President, I ask unanimous consent that during the recess-adjournment of the Senate the Senate committees may file reported Legislative and Executive Calendar business on Thursday, May 31, between the hours of 11 a.m. and 2 p.m.

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

EXECUTIVE SESSION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination, Calendar No. 777, Carl J. Kunasek to be Commissioner on Navajo and Hopi Relocation.

Mr. President, I ask that any statements appear in the RECORD as if read; that a motion to reconsider be laid on the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

NAVAJO AND HOPI RELOCATION

The legislative clerk read the nomination of Carl J. Kunasek, of Arizona, to be Commissioner on Navajo and Hopi Relocation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

STATEMENT ON THE NOMINATION OF CARL KUNASEK

Mr. McCAIN. Mr. President, I am pleased to be able to support Mr. Carl Kunasek, the President's nominee for the position of Navajo-Hopi Relocation Commissioner. I am delighted that the Select Committee on Indian Affairs unanimously supported this nomination. I thank our distinguished chairman, Senator INOUYE for his leadership and courtesy in moving this nomination forward. Mr. Kunasek has a long and distinguished career in the Arizona State Legislature and has exhibited both the leadership and personal commitment that are necessary for a position of public office. These fine qualities will serve him well in his position as Navajo-Hopi Relocation Commissioner.

I think those of us who worked on the recent amendments to the Navajo-Hopi Relocation Act can appreciate the magnitude of the job at hand for the new commissioner. We have seen the many difficulties faced by both tribes as the location program was implemented and as the program progressed. We have wrestled with many very difficult and heart-rending situations.

The time is at hand to complete the process of delivering relocation benefits to those eligible persons who are most in need, to continue the progress that has been achieved in the development of the new lands project, to ensure that eligible relocatees receive the benefits to which they are entitled, and to work toward the development of joint projects and cooperative approaches to community development.

Recently, I was greatly encouraged by the creation of a joint Navajo and Hopi airport authority to operate and maintain the new airport at Tuba City. The FAA awarded $1.8 million to the Navajo and Hopi tribes for the construction of the airport. This award represented an important milestone in the efforts of both tribes to seek areas of mutual benefit and pursue cooperative development projects. I believe that we can all share in this effort and that as the new relocation commissioner Mr. Kunasek's leadership and dedication can only serve to expand opportunities to the people of both tribes.

Again, I would like to offer my congratulations to Mr. Kunasek. I wish him every success in this difficult undertaking.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to Legislative Session.

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

The PRESIDING OFFICER. The absence of a quorum is suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Idaho is recognized.

Mr. McCLURE. I thank the Chair.

(The remarks of Mr. McCLURE pertaining to the introduction of S. 2674 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

The majority leader is recognized.

ORDERS FOR TOMORROW

RECESS UNTIL 9:30 A.M.; RESERVATION OF LEADER TIME; AND RESUME CONSIDERATION OF S. 1970

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Wednesday, May 23, and that following the prayer, the Journal of proceedings be deemed approved, that the time for the two leaders be reserved for their use later in the day; that following the reservation of leader time, the Senate resume consideration of S. 1970, the omnibus crime legislation, and upon resumption of the bill there be 45 minutes for debate on the Hatch amendment, No. 1681, with 30 minutes under the control of Senator DECONCINI and 15 minutes under the control of Senator HATCH; that when the time is used, the Senate proceed to vote on the Hatch amendment, No. 1681, without any intervening action, and that no amendments be in order to the Hatch amendment.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening. Under the unanimous-consent agreement just approved, a vote will occur on the Hatch amendment to strike the DeConcini provision from the bill at 10:15 a.m. tomorrow morning.

I regret the inconvenience to Senators by the lengthy delay that has ensued. There have been discussions between the managers and other interested Senators in an effort to resolve this and other matters related to the bill. We hope to have a further announcement later this evening in that regard, with respect to action taken following the disposition of the Hatch amendment.

I appreciate the effort made by all those concerned. I again regret the inconvenience to Senators as a result of this delay, but we will proceed to vote tomorrow morning at 10:15 on the Hatch amendment.

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. 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.

Mr. MITCHELL. Mr. President, under a previous unanimous-consent agreement, the Senate will vote on the Hatch amendment No. 1681 tomorrow at 10:15 a.m. I am now about to propound a unanimous-consent request for the next matter to be considered with respect to the pending legislation following disposition of the Hatch amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that immediately following disposition of the Hatch amendment No. 1681, Senator GRAHAM be recognized to offer an amendment modifying the Biden language in title II of the bill; that without any intervening action or debate, the amendment be considered agreed to; that title II be considered original text for the purpose of further amendment; that Senator THURMOND then be recognized to offer a perfecting amendment in behalf of himself and Senator SPECTER regarding title II of the bill, notwithstanding the fact that the title has previously been amended; that there be 6 hours for debate on the Thurmond amendment, equally divided in the usual form; that after all time is used or yielded back, the Senate proceed to vote, without any intervening action or debate on the Thurmond amendment; that no other amendments or motions be in order to the Thurmond amendment; that following the disposition of the Thurmond amendment, no other amendments on the subject of habeas corpus be in order to this bill prior to third reading; and that the expedited procedures authorized in section 7323, Public Law 100-690, shall not apply to the consideration of S. 1757.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. THURMOND. Just a minute, Mr. President.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. THURMOND. No objection, Mr. President.

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

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation, the distinguished acting Republican leader, the chairman and ranking member of the committee. So the Senate should be aware that we will vote on the Hatch amendment at about 10:15 tomorrow, then have 6 hours of debate on the Thurmond amendment relating to habeas corpus, with a vote on that at the conclusion or yielding back of that time.

Mr. President, I yield to the distinguished junior Senator from Hawaii.

(The remarks of Mr. AKAKA pertaining to a proposed amendment are printed in today's RECORD under "Amendments Submitted.")

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER (Mr. BIDEN). In my capacity as a Senator from the State of Delaware, on behalf of the majority leader, and if the distinguished Republican leader has no further business, and if no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 9:30 a.m. tomorrow, Wednesday, May 23, 1990.

There being no objection, the Senate, at 10:44 p.m., recessed until Wednesday, May 23, 1990, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate May 22, 1990:

NAVAJO AND HOPI RELOCATION

CARL J. KUNASEK, OF ARIZONA, TO BE COMMISSIONER ON NAVAJO AND HOPI RELOCATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

THE CONTINUING CRISIS IN THE KASHMIR PROVINCE

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. FALEOMAVAEGA. Mr. Speaker, I want to bring to your attention the grim conditions presently confronting the people of Kashmir Province as a result of the repressive policies of the Indian Government against these people. I call upon President Bush and Secretary Baker to take action to investigate these events that are taking place in Kashmir.

Mr. Speaker, I submit for the RECORD several relevant newspaper accounts of the problems on Kashmir.

[From the Washington Post, May 6, 1990]

INDIAN CRACKDOWN IN KASHMIR HELPS FUEL SEPARATIST CAUSE—MILITANTS, TROOPS SKIRMISH DAILY IN CITY

(By Steve Coll)

SRINAGAR, INDIA.—Rifle shots popped like firecrackers in the thin mountain air of this once-idyllic capital of Kashmir. A panicked horde of civilians rushed down a dirty alley from the main road, the men slapping mules into motion, the women gathering children under their arms as they ran.

Metal storefront shutters clanged shut. As if on cue, veiled women leaned from apartments above and pulled their windows closed. "Crossfiring," several of those fleeing called out.

Moslem militants who favor separation from India had ambushed an Indian army patrol around the corner, prompting the soldiers to return fire at a crowd of civilians. Two young men were wounded in the legs, hospital doctors said later. There were unconfirmed reports that a soldier died.

Bloody skirmishes between militant separatists and Indian soldiers now occur several times a day in Srinagar, a former tourist haven gripped these days by anger, fear and violence after five months of armed rebellion, prolonged curfews and a brutal crackdown by Indian security forces.

The Indian government contends that the situation is coming under control, but the popular separatist uprising here that has led India and Pakistan to threaten a fourth war for control of Kashmir appears more intractable than ever. Interviews with scores of Kashmiris over several days—from slum dwellers to doctors and bankers—suggested that the crackdown has polarized the population, driving many previously neutral civilians to the side of the militants.

Hindu-majority India claims full sovereignty over the region, while Islamic Pakistan urges that Kashmiris be allowed to choose their own destiny in a plebiscite. Meanwhile, Kashmiri militants have taken matters into their own hands, regularly attacking Indian soldiers and assassinating government officials.

Well-armed urban guerrillas here, some of whom have apparently obtained weapons originally supplied by the United States to Afghan rebels based in Pakistan, continue to operate with virtual impunity despite the presence of about 15,000 Indian soldiers and paramilitary troops in the Kashmir Valley. And the region's people, most of whom are Moslems, appear to be broadly sympathetic to the militants, despite severe deprivations caused by around-the-clock curfews, house-to-house searches, arbitrary detentions and beatings meted out by security forces.

The valley's several million residents have been confined to their homes for long, uninterrupted stretches—12 continuous days and nights at one point during April—while soldiers pour through slum buildings and house boats nestled along the city's lakes and canals. The searches appear to have raised the population's temper to the boiling point.

"When they have taken the gun against the people, why not take up a gun—if we have to die tomorrow, why not today?" asked Mohammed Yusuf, a 70-year-old retired school teacher.

Yusuf wept as he told how two days earlier, his son, an engineer visiting from his home in the Middle East, had been beaten by security forces after refusing to wash off anti-Indian slogans painted on a tree on the street in front of his house.

"They fell on him. They began to beat him with rifles. They hit on his head, and I fell on him and they hit me. They took him away. His whole body is injured . . . What has happened to us? I am an old man. I can't fight them."

In a slum quarter across town, Bashir Ahmed, a tailor, displayed deep scars on his arms, shoulders and feet, which he said were the result of beatings administered by Indian soldiers after he was detained during a house-to-house search in April. Ahmed said he was beaten with sticks and rifle butts until he passed out.

"I thought, 'This is the end of my life.' I asked, 'Just shoot me.' But they only beat me."

Indian government officials describe the reports of abuses by security forces—including alleged rapes and widespread thefts—as exaggerations concocted by propogandists for the separatist militants. Kashmiris opposed to the government agree that the valley is rife with rumors about atrocities allegedly committed by soldiers, and that many of the rumors are unfounded.

But physical evidence of abuses by security forces—in the form of scars, bruises, smashed windows and charred buildings—is widely visible in Srinagar.

Indian forces have virtually occupied the city, which normally overflows in May with foreign and Indian tourists attracted by the colors of the springtime bloom and spectacular views of peaks in the Himalayan range. Sandbag bunkers with machine gun barrels protruding have been erected by the army in front of hotels and handicraft shops. The houseboats, hiking trails and lakeside walks are empty.

Jammu and Kashmir Gov. Jagmohan, who has overseen the recent Indian crackdown, during which more than 300 people have died, said the recent curfews and searches were forced upon him by the Moslem militants. He denied that there had been excesses by Indian soldiers.

But Jagmohan, who uses only one name, said he had no plans to ease the crackdown. "Now I am saving the [Indian] union," he said. "How many people did Abraham Lincoln kill? If I have to use force, there is a moral legitimacy to it."

Jagmohan said his approach had produced "a massive gain" for the Indian government. But the valley's economy, which depends heavily on tourism, has been virtually shut down, and many Kashmiris said they felt they no longer had anything left to lose by fighting the Indians.

A network of police informers, known as mukhbirs and developed by the Indian government here, coupled with the growing strength of the armed militants, has forced ordinary Kashmiris to take sides as they never have before. "Now there are only two choices," said a Srinagar businessman. "You become a mukhbir or a mujahed," or Moslem holy warrior.

Doctors at a downtown Srinagar hospital said that because of a recent epidemic of meningitis in the city, a number of people had died, unable to reach medical help during the curfews. The doctors complained of acute shortages of medicines, including drugs for testing cancer.

"I'm sure Pakistan should give their highest award to Jagmohan for pushing people to become Pakistanis." said one doctor. "There are many [Kshmiri] nationalists who have become pro-Pakistani. A doctor is a suspect. A bureaucrat is a suspect, an engineer, a businessman. If we are all suspects [to the Indians], who is with them?"

The anger and desperation expressed by Kashmiris in interviews appears to have fed the growing strength of the valley's radical Islamic militant groups, particularly the Hezbollah mujaheddin, whose members say they have received money and arms—including U.S.-made Stinger anti-aircraft missiles, rocket-propelled grenades and land mines—from private sources in Pakistan, Saudi Arabia and Iran, as well as from the U.S.-backed Afghan mujaheddin rebels.

In recent months, the pro-Pakistan Hezbollah has joined the nationalistic, pro-independence Jammu and Kashmir Liberation Front in a coordinated and apparently well-planned insurgency against the Indian security forces. "We have to prepare [Kashmiris] for a long-term war, instead of a short-term war," said, instead of a short-term war," said a Hezbollah guerrilla who uses the nom de guerre Nadim.

He said his group is stockpiling weapons for what he called a "new phase" of the uprising, including assassinations of Indian government officials, plane hijackings and a full-scale guerrilla war in the Kashmir mountains. "The first thing at this time is just to catch them sleeping," he said.

While Nadim sat talking in a slum house just 50 yards from a well-manned Indian army bunker, a 15-year-old colleague brought in one of Hezbollah's weapons, an AK-47 automatic assault rifle with Chinese markings and bullets manufactured in the United States—the same type of weapon supplied by the U.S. government to Afghan

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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rebels based across the border in Pakistan. Nadim said some Kashmiri Hezbollah guerrillas had received training from the Afghan rebels.

Many Kashmiris interviewed expressed discomfort about Hezbollah's fundamentalist ideology and pro-Pakistan stance—Islamac guerrillas have smashed and forced the closing of the valley's popular bars, video shops and cinemas as part of their crusade. Nevertheless, virtually all of Kashmir's Moslems appear to support the immediate goal of the insurgency, which is to expel India from the region, which it has controlled since independence in 1947.

"It is a matter of circumstances—if we are being terrorized, we must take up arms. It is permitted by the Koran," said Mullah Mohammed Hussain, 71, who said he had been detained and beaten by Indian security forces and told that he should stop preaching in his local mosque. "We are not going to be with India. They must either leave us, or, if they don't, we will go for the holy war."

Five months ago, many Kashmiris interviewed here said they were adamantly opposed to any war between India and Pakistan for control of the region because they wished to achieve independence on their own. Now the public mood appears to have shifted.

While few of those interviewed openly longed for war, a number said that because the international community has expressed little support for Kashmiri aspirations for independence, they now believe that only a military victory by Pakistan could free the valley from Indian control.

Kashmiris have struggled to define an identity for themselves separate from India for more than 40 years, but in the Indo-Pakistan wars of 1948, 1965 and 1971, valley residents watched quietly while the rival armies clashed along the border. This time Kashmiri militants and civilians would make life difficult for the Indian forces by stepping up guerrilla attacks and sabotaging roads and communications.

"We want the problem to be solved through peaceful means," said a Srinagar teacher. "But if that is not possible, we welcome war."

[From the New York Times, Apr. 22, 1990]

INDIA AND PAKISTAN MAKE THE MOST OF HARD FEELINGS

(By Barbara Crossette)

ISLAMABAD PAKISTAN.—Heirs of a shared ancient history, products of the same colonial administration and home to similar peoples and languages, Pakistan and India might be expected to understand and communicate with each other in times of crisis. Yet more than 40 years after their simultaneous creation, their differences have them once again polishing the words and weapons of war.

The crisis, once again, is over Kashmir, the predominantly Muslim region long disputed between Islamic Pakistan and Hindu-dominated India.

Indians and Pakistanis are drifting toward what many of them feel instinctively is a dangerous state of belligerence because grandstanding is politically useful to two beleaguered Prime Ministers, V.P. Singh and Benazir Bhutto.

There probably will not be a war, at least not in the near future, experienced diplomats and officials say. But this kind of peace is disturbing.

Democracy's normal brakes are failing, as most news organizations in both countries trumpet the government line rather than examine it. Neither the Pakistani nor the Indian Parliament is debating the issue in any productive way. Myths are thrown around: Pakistan is run by generals. India is out to conquer the region. Neither side seems interested in negotiating.

"South Asians, all of us, seem to have a fatal problem in politics," a Pakistani official said, "We do not analyze and we don't seem to understand where things are taking us. We are driven by events."

Pakistan and India have fought three times over the picturesque Kashmir Valley: in 1947, in 1965 and as part of a larger war in 1971. The last, inconclusive talks on Kashmir followed in 1972. Now, no questions are asked more frequently on both sides of the border than these: Will there be another war? And why?

India says Pakistan is behind a secessionist movement blazing out of control in the Indian part of Kashmir Indians produce "evidence" of Pakistani training camps and official plots, but diplomats say much of this does not stand up to investigation.

Pakistan, with better evidence and a stronger legal position—New Delhi won't allow a United Nations mandated plebiscite the valley—accuses India of supressing Kashmiri self-determination.

Separatism began to grow dramatically in India's Jammu and Kashmir state in 1987, when the Congress Party of former Prime Ministers Rajiv Gandhi co-opted the last independent, mainstream Kashmiri party and rigged elections there. In his first crisis after taking office in November. Prime Minister Singh, Mr. Gandhi, successor, freed jailed separatists to secure the release of the abducted daughter of his Home Minister, a Kashmiri Muslim.

With Kashmiris emboldened by the militants victory, unrest grew. New Delhi cracked down and since late January score of people have been killed in clashes with the police. Srinagar, the summer capital, remains under curfew.

The cause of a beleaguered Muslim people is a powerful one in Pakistan, and Mr. Bhutto, her administration drifting from crisis to crisis, has made the most of it. A diplomat said "there is no other single issue that has consolidated her position here as much as Kashmir." Pakistanis say that Ms Bhutto's emotive language recalls the style of her father, the late Zulfakar Alt Bhutto, when he fanned the flames that led to the 1971 war with India.

Mr. Singh's brinksmanship is also a matter of political survival. He precarious minority Government depends on support from the Hindu right and ideological left, neither of which wants to concede power to Muslims in Kashmir.

As threats grow harsher, military forces on both sides are getting prepared. Still, the overwhelming military superiority of India would seem a deterrent to conflict. Diplomats here say that the Pakistani military leadership, wary of this, might try to step in to cool the civilian Government's language.

Ms. Bhutto plans a speaking tour of Pakistani Kashmir, a semi-autonomous region, soon to back her party's candidates in elections on May 21. Tension is high there, as Indian Kashmiris arrive from across the cease-fire line with accounts of Indian brutality.

In India, there is also reported to be a cautious attitude among military leaders, some of whom were bruised by getting into the wrong kind of war in Sri Lanka. There are also concerns about a more advanced Pakistani Army growing out of its pivotal role in supplying the Afghan rebels.

In a candid interview with the news magazine India Today, Gen. Krishnaswami Sundarji, a former army chief, suggested that India's military edge may have eroded slightly. He also took issue with his Government's assertion that the war of secession in Kashmir was created in Islamabad.

The current conditions are not something that they have engineered." he said of Pakistan. It's something we've also done or not done in the last few years in Kashmir."

A LEGACY OF CONFLICT

1947—When British India is partitioned into India and Pakistan, a Muslim revolt backed by tribesmen from Pakistan flares up against the maharaja governing the state of Jammu and Kashmir, or simply Kashmir, Indian forces are dispatched to suppress the uprising and Pakistan sends troops to back the rebels.

1949—Fighting ends with a United Nations cease-fire. Kashmir is divided between Pakistan and India along the cease-fire line. Pakistan controls roughly a third of the region, in the west and northwest, and India the rest. Repeated clashes break out along the cease-fire line.

1956—A vote by the assembly in the Indian controlled part of Kashmir leads to the formation of the Indian state of Jammu, and Kashmir. India spurns Pakistani protests, backed by United Nations resolutions for a plebiscite on the future of the entire region. Azad Kashmir, or Free Kashmir, remains under the control of Pakistan.

1962—Indian and Chinese forces clash over a portion of northeastern Kashmir where China has built a road of strategic importance.

1965—War breaks out again between India and Pakistan over Kashmir. A United Nations ceasefire ends the fighting.

1971—India again fights Pakistan, wresting independent Bangladesh from what was East Pakistan. A secondary front in the war is Kashmir, where India makes some gains.

1972—India and Pakistan agree to a new cease-fire line along positions held at the end of the 1971 war.

[From the Washington Times, May 14, 1990]

KASHMIRIS SET FOR HIGH-TECH WAR

(By Shamim ur Rahman)

MUZAFFARABAD, KASHMIR.—Calling themselves soldiers of God, the latest batch of Kashmiri youths crossed the porous border with India into Pakistani-controlled Kashmir, claiming to have been primed for battle by Afghan war veterans.

Some of them said they were trained to use rifles, anti-tank weapons and even anti-aircraft guns in their rebellion against Indian rule of Kashmir.

"I can operate Kalashnikovs [rifles], light machine guns and the anti-tank weaponry," Shafiq Ahmed, a 26-year-old militant in the Jammu and Kashmir Liberation Front, said in a recent interview.

"I received weapons training in the semi-autonomous tribal area" on the Pakistan-Afghanistan frontier, added Hamshal Siddiqi, who comes from Baramula, on the Indian side of Kashmir.

Claiming that he fought with the Afghan resistance against the pro-Soviet regime in Kabul, he said he was trained inside Afghanistan.

"I am now trained to operate the anti-aircraft guns," Mr. Siddiqi said.

These militants, whose fighting skills appear to have been more polished recently, said they started the anti-India fight with "sticks and stones."

"Now we fight with weapons snatched from the Indian soliders or bought from the arms smugglers," the militants said, echoing Afghan resistance tactics.

Those crossing the border call themselves soldiers of God and come with few assets in search of guns and bombs to carry on the armed struggle against "outsiders in Kashmir," the Indian troops.

Their targets are the troops, government installations or pro-New Delhi officials.

Gun trade is easy in the Afghan tribal area, where people can buy arms even with Indian currency. Authorities in the Afghan resistance based in Peshawar, bordering Afghanistan, have no control over the arms dealers and avoid comments on such deals.

"These youth not only got practical training by participating in the Afghan jihad [holy war], but also returned to the occupied Kashmir with substantial weapons," said Ghulam Mohammed Safi, chief of the Kashmiris' Hizbul Mujahideen, which is backed by the Pakistani fundamentalist movement Jamaat-i-Islami.

Mr. Safi, a science graduate and a vocal leader of the multiparty alliance in Kashmir, came here a few months ago, apparently to coordinate with the local Jamaat-i-Islami, which is also well entrenched in Kashmir and India.

Zigzagging hundreds of miles across snow-capped high peaks on the way from Indian-held Kashmir's capital of Srinagar—the hub of the secessionist campaign—thousands of people have reached Muzaffarabad, the capital of Pakistan-administered Azad (free) Kashmir.

The Kashmiris, having blood relations on both sides, never recognized the Line of Control delineated as the border after the partition of the northern Himalayan state in 1949.

As the militancy grew, the perception of the valley's younger generation has also changed. For a sizable number of the educated, unemployed youths it is no longer a question of choosing between India and Pakistan.

They now demand "total independence," although others want to postpone the issue for the moment. But almost all arriving here after an arduous journey seemed united on one point—liberation from Indian rule.

The Indians also seem to have taken a cue from the Kabul-Soviet forces, another militant observed. Like the Soviets, he said, they are indulging in not only house-to-house, but "room-to-room searches."

The action outrages Kashmiri sentiments, as respect for women in the home is important for them, a Jamaat-i-Islami spokesman said.

"More and more people are supporting the struggle," he said, noting the Indians did not realize that "violation of sanctity of women" would lead to a rise in recruits.

KEY TO DEMOCRACY IN AFRICA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. BURTON of Indiana. Mr. Speaker, the recent victory by the UNITA freedom fighters at Mavinga, illustrates graphically the fact that there is no military solution to the tragic conflict in Angola. UNITA has offered unconditional talks and a reconciliation process, and it is now up to the MPLA government to respond.

The people of Angola were promised democracy in 1975, and had it snatched away from them by Cuba, the Soviet Union, and the MPLA. It is time to give back to the Angolan people their shot at democracy.

I would like to commend to my colleagues this essay about Dr. Savimbi and UNITA by Rev. Maurice Dawkins, distinguished public servant, tireless fighter for civil rights, and former Republican Senate candidate in Virginia.

JONAS SAVIMBI KEY TO DEMOCRACY IN AFRICA

Democracy in Eastern Europe, as an amazing revolutionary process, has startled world opinion and freedom fighters have gained new hope in those countries where one party authoritarian rule still prevails.

Hungary, Czechoslovakia, East Germany, Poland and segments of the U.S.S.R. have been joined by Nicaragua and the Philippines as examples of democratization. Free and fair elections in Namibia have encouraged African freedom fighters to continue to struggle for the right to vote and choose their own leaders and determine their own destiny.

Against this background, the question must be asked in the spirit of the late Robert Kennedy—Why not? Why not free elections in Angola? Why not a ceasefire and U.N. monitored negotiations to follow up the Accord between Cuba, South Africa and Angola to make Namibia independence a reality.

Unfortunately, Angola and the freedom and democracy movement led by UNITA's Jonas Savimbi does not get the kind of high visibility coverage that Poland's Solidarity Movement with Lech Waleasa has enjoyed.

Instead the high powered well connected U.S. left wing public relations machinery does a superb job of painting a negative picture or even arranging for a complete black out of the "fight for democracy" in Angola.

Their propagandists would have the reader believe that the present ruling Marxist Government does not differ ideologically from the United States Government. The one-party rule, the ruthless seizing of power with the help of four and a half billion dollars of Soviet military power and Cuban mercenaries backed by the Warsaw Pack Countries Technical Assistance is pushed aside. The U.S. commitment to multiparty politics, one man one vote and free and fair elections is not mentioned. The failure of the Dos Santos government to permit opposition political views to be considered is swept under the rug.

Instead those who broke the original Alvor Agreement that called for MPLA-UNITA and FNLA participation in a democratic political process are depicted as reasonable—misunderstood—free market advocates who will make great trading partners for America.

They would have us believe that the hardline Marxist Leninists in Angola who are more in line with Castro than with Gorbachev are about to become neocapitalists and adopt a conciliatory policy granting amnesty to the "UNITA rebels" who want freedom and democracy so bad that they are willing to die for it.

They smoothly and adroitly avoid any recognition of the MPLA military failure to crush the desire for freedom from autocratic dictatorship and the hunger for independence, self determination, democratic free elections. Hiding behind the smoke screen of American anti-apartheid hatred for South Africa's inhumanity to man—he fails to tell the true facts about UNITA's anti-apartheid position and Savimbi's fierce opposition to South African control of Angola's destiny. He would have you believe that in a 15 year civil war, the only casualties were the victims of UNITA—that the MPLA and the 60,000 Cubans, the North Koreans and East Germans and North Vietnam and Portuguese mercenaries units never killed any Angolan families and children.

They would have you believe that the helicopters and MIG fighters, tanks and artillery under the guidance of Soviet "Advisers" never dropped bombs or fired rounds of ammunition that hit and killed innocent Angolans.

They would have you believe that peace initiatives and offers of political negotiations to open the Benguela Railway to permit economic trade were never undertaken by UNITA even after they soundly demonstrated that there could be no military victory in the Angolan civil war.

Most of all, they would have you believe that Dr. Jonas Savimbi is totally bad and Eduardo dos Santos is totally good. That is not so!

Savimbi, the son of a Christian minister, himself a practicing protestant, has organized or encouraged the organization of Catholic and Protestant churches in Jamba, the capitol of Free Angola territory. This man, a product of the Mao Tse Tung guerrilla training is an efficient military commander fighting a war against tremendous odds. He is also a product of the fight for freedom against Portuguese colonialism, a strong advocate of democracy and free elections to let people determine their own destiny. He also has learned all about communism and like Lech Waleasa, Corazon Aquino, and Violeta Chammoro, knows that freedom is not possible under one party Marxist dictatorship. He saw the flaws in the communist system even before Gorbachev did. He has turned to America and the free world for help while the dictatorship in Angola turned to the communist world for help.

Free market economies and one man one vote politics have been adopted as standard brand doctrine by this advocate of democratization.

For the survival of his people who faced total destruction—he accepted help from any source available—a drowning man does not care who throws him a plank or a life preserver. His anti-apartheid convictions were never compromised as military supplies came from South Africa.

This brilliant strategist and tactician is a consummate politician and has earned the respect of even his enemies for his skill in international diplomacy. Privately the African heads of state will tell you he is one of the best products that African politics has produced.

He is an important key to unlock the door of opportunity for democracy in the southern region of Africa. His vision of a Free Angola holding free elections monitored by the United Nations following the Namibia model has captured the imagination and mobilized the energies of Angolans who are willing to fight and die to make his dream a reality. A guerrilla movement cannot survive without the support of the masses of the population.

A free and fair election based on one man one vote in Angola would give independence, freedom and democracy movements in all of Africa a very much needed impetus.

The corrective medicine for dictatorship is democracy. If it is good for Namibia and South Africa, then one man one vote ought to be good for Angola too. What's good for the goose is good for the gander.

Multi-party democracy in Namibia should encourage multi-party democracy in Angola. Who knows, perhaps the dictatorships in Liberia and Ethiopia could learn a lesson from Ortega in Nicaragua and admit that people need to have a right to self-determination. Democracy would have a real future in Africa in the 21st century if the visions of Jonas Savimbi prevails. The Front Line nations in the southern region could perhaps serve as a model in a post apartheid era. Freedom and democracy could perhaps one day break out in Africa as it is today breaking out in Europe. The historical necessity for political economic and social change ultimately could prevail on the African continent. The status quo conservative will perhaps one day accept the realities of freedom as advocated by the reformers.

This vision of peace and brotherhood and the end of black fratricide is what Dr. Jonas Savimbi shared with some of the African-Americans who have visited with him in Jamba. This expression of hope for the future is what this man has shared with African-Americans who have been willing to listen to him when he visited the United States.

Is this a man too dangerous to sit at the conference table with President dos Santos of Angola—I think not! Is this a man that the African Heads of State would have included in any plans for the future of Angola—I think so!

These are the true facts.

The true picture is one where Jonas Savimbi is seen clearly as a key to democracy in Africa.

By Dr. Maurice Dawkins.

Reverend Maurice Dawkins was the Virginia Republican candidate for the U.S. Senate in 1988. He has served in a subcabinet position during the Lyndon Johnson Administration. He was Professor of Domestic Policy and Urban Affairs at the Presidents Executive Training Institute at Charlottesville. He was the West Coast Chairman of Martin Luther King Christian Leadership Conference and the Chairman of the West Coast NAACP Convention as well as President of the Los Angeles branch. The late A. Philip Randolph appointed him as West Coast Coordinator for the 1963 march on Washington. He was a founding member of the American Committee on Africa, a board member of the Negro Leadership Conference on Africa, and one of the early members of TransAfrica in its organizing year. He has traveled and visited with leaders in Angola, South Africa and was appointed by President Bush to serve on the observer team at the Namibia elections.

IN HONOR OF CHARLES VIOLA

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to Mr. Charles Viola who has been selected "All American Commander" by the National V.F.W.

Charles was born and raised in Fort Lee, NJ. He served honorably in the U.S. Army in Korea. He worked for Universal Pictures for 18 years and later was employed as a restaurant manager.

Charles was elected post commander of the Cairola-Barber Post 2342 V.F.W in 1964, and was elected post commander 13 out of the past 15 years. After joining the post in 1958, he became club manager in charge of all post affairs. He was selected "All State Commander" in 1966 and again this year. he is the only post commander in the State of New Jersey to receive this honor.

This year the post achieved 200 percent of last year's membership. The National V.F.W. chose Charles for their "All American Commander Team." He has received many awards from State and National V.F.W.'s, and he has made Post 2342 a model for all others throughout the Nation. Charles has dedicated his life to serving the V.F.W. and the community of Fort Lee. He served as the chairman of the Memorial Day Parade in Fort Lee last year, and was invited to do so again this year. Charles is one of those special few who truly make a difference in our society.

Mr. Speaker, I am proud to join in paying tribute to this exceptional man and extend my best wishes to him.

TRIBUTE TO "MAN OF THE YEAR" MICHAEL HASHIN

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. YATRON. Mr. Speaker, today I would like to pay tribute to one of the most inspiring men in Schuylkill County. I am speaking of Mr. Michael Hashin, who has been selected by the American, Slovak, Ukrainian, Russian Club of Schuylkill County as "Man of the Year." Mr. Hashin has well-deservedly earned such an honor. Through his dedication to his family, church, community, and business, he has served as an exemplary member of the Minersville community.

As a successful businessman, Mr. Hashin has generously contributed his knowledge and expertise to numerous community organizations, such as the Minersville Municipal Water Authority, the Miners National Bank Advisory Board of Directors, the Minersville Merchants Association, and the Nativity BVM High School. Furthermore, serving as a trustee of the St. Nicholas Ukrainian Catholic Church and as manager of its catering service, in addition to being a member of the Holy Name Society, Shamokin Deanery, Mr. Hashin has been an outstanding church leader.

Mr. Speaker, Mr. Hashin has brought guidance, inspiration, and leadership to the community, and he epitomizes the essence of civic and community service. It is only fitting that he be recognized for his contributions to Schuylkill County. Indeed, it is an honor and a privilege to commend Michael Hashin and to say thank you for his outstanding service.

GOOD SHIP ESTHER FOUNDATION

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to the Good Ship Esther Foundation of southwestern Michigan. The foundation was organized to transform the *Good Ship Esther,* a 36-foot boat built in 1896 for the U.S. Navy, into a solar-powered ship. The ship was totally remodeled by adding 300 square feet of photovoltaic solar panels which would give it a full power to travel 6 knots.

Cofounders of the nonprofit organization, Bruce Herron of Ganges and Richard Orawiec of Pullman, launched the solar-powered ship at South Haven Port, along the shores of Lake Michigan, as part of the opening celebration of Earth Day. The *Good Ship Esther* is an effort to bring worldwide attention to the use of solar power as an alternative energy source. In June 1990, the foundation members plan to sail the solar-powered vessel from South Haven, MI, to Chicago, IL. After its initial voyage, it will continue on route to New York City while stopping along the way to promote the use of solar power.

Mr. Speaker, I am sure that my colleagues will want to join me in commending members of the Good Ship Esther Foundation for their efforts in addressing the plaguing energy and environmental problems that we face as a nation. We owe all who continue to participate in this educational effort an enormous amount of gratitude.

TRIBUTE TO THE BOROUGH OF NAZARETH, PA, ON ITS 250TH ANNIVERSARY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to the Borough of Nazareth, PA, on the occasion of its quartimillenial this year.

The land on which Nazareth, PA, was established was known as The Barony of the Rose. William Penn had deeded the land to his daugher Letetia for the payment of one red rose annually.

In the late 1730's, the Moravians left Moravia in what was then Germany and settled in the colony of Georgia to establish a Christian mission. Border uprisings between the Span-

ish in Florida and the English in Georgia led the Moravians to accept the invitation of a methodist evangelist George Whitfield to relocate in Pennsylvania. Whitfield's purpose was to establish a school for blacks in Pennsylvania.

Fanning out from Philadelphia in search of land, the search led the Moravians to purchase and settle this land which today is Nazareth. The school that Whitfield envisioned was started in 1740 and finished in 1743. It was never used as a school. In 1741, the Moravians bought the entire tract of 5,000 acres to establish a society of brotherhood and cooperation. The Whitfield House was used as a church home from which a communal form of existence took place.

Nazarth Hall, an example of the best form of Moravian architecture, was erected in 1745. It became an elementary and secondary school and then a military academy before closing in 1929. The buildings today are apartments, Moravian craft houses and preserved open space—a beautiful place to visit.

Nazareth remained as a strict Moravian community until a petition was presented to Northampton County Court in 1855, asking for borough status. Borough status was granted in 1856.

Approximately 23,000 people populate the Nazareth area, making a living in various ways. Cement manufacturing has played the most important part in the economy for many years. Other industries have become vital to Nazareth's economy, including textiles, woodworking and agriculture. The process of dehydrating alfalfa was invented in here. Nazareth is also the home of Martin Guitar company, an internationally recognized manufacturer.

Nazareth is also home to world champion race car driver Mario Andretti and his racing family. In 1987, the Pennsylvania International Raceway was opened on the site of the old Nazareth speedway. Drivers, their teams and spectators come from all over the world to participate.

Nazareth boasts a comprehensive educational program from nursery care through senior high school, including vocational-technical training, and school district support of the Northampton Community College. Nazareth is known for the quality of its public education program.

Mr. Speaker, I would also like to recognize the civic organizations in the Nazareth area who make an invaluable contribution to the borough through commuity service:

General Federation Women's Clubs.
Kiwanis Club of Nazareth.
Nazareth Women's Club.
Ladies of Retirement Age (LORA).
Men of Retirement Age (MORA).
Nazareth Area Chamber of Commerce.
Lower Nazareth Lioness Club.
Lower Nazareth Township Women's Club.
Nazareth Area Industrial Management Club.
Nazareth Business and Professional Women's Club.
Nazareth Heritage, Incorporated.
Nazareth Lions Club.
Nazareth Lioness Club.
Rotary Club of Nazareth.
Hecktown-Lower Nazareth Lions Club.
Tatamy-Stockertown Lions Club.
Buskill Township Lions Club.
Whifield Lodge 662 F. & A.M.
Moravian Historical Society.

In particular, I would like to recognize the 250th Anniversary Celebration Committee of Nazareth and its officers—Robert Reichard and Robert Danner, co-chairmen; Edith Oswald, vice chairman; Robert Rolling, treasurer and Kathleen Unger, secretary. These volunteers have been the coordinating and driving force behind what is sure to be an outstanding and memorable celebration.

Mr. Speaker, my colleagues, please join me in congratulating the good people of Nazareth, PA, on its 250th anniversary.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWRY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. ROE. Mr. Speaker, I rise today to participate in the Congressional Call to Vigil for Soviet Jewry. At the outset, I would like to thank my colleagues, Representatives PETER KOSTMAYER and JOHN MILLER, cochairmen of the 1990 Congressional Call to Conscience Vigil for Soviet Jewry, for coordinating this effort.

How ironic it is that glasnost for the Soviet Union, and soaring emigration figures for Jews leaving the Soviet Union, have unleashed the ugly forces of anti-Semitism in the Soviet Union. Groups such as Pamyat and others openly speak of eliminating the Jewish presence from "Mother Russia," the infamous "Elders of the Protocols of Zion" is sold from bookstores, and prominent Soviet writers, invited by the United States Government to tour America, publicly espouse and defend anti-Semitic canards and half-truths, accusing the Jews of the Soviet Union for many of the problems, past and present, that have plagued all of the Soviet peoples. Glasnost was certainly not meant to produce this anti-Semitic reaction, yet this is what precisely has happened, and not only in the Soviet Union, but in Eastern Europe as well.

Despite the record emigration numbers, and in light of the increasing tide of anti-Semitism, it is vital that all those Soviet Jews who wish to leave, and all refuseniks, be allowed to do so. One such person is Dr. Irena Voronkevich of Moscow. She has been waiting for over 10 years to emigrate, and there is no conceivable reason why a 77-year-old woman, a professor of botany who has not worked in a decade, should be denied a visa for what the Soviet authorities consider are security reasons.

This woman has endured her share of suffering in her lifetime. Stalin's police murdered her father in 1938, her husband fell on the battlefield in 1943, and she raised her son alone for those many years. He was a long-term refusenik, who with his family and her mother first applied for a visa in 1979. They were refused, and told to wait for 10 years. They reapplied in 1987, were turned down again, and told to wait until 1992 to reapply. Now, the date for application has been changed to 1997. In 1989, the son was granted a visa, but his mother was turned down again.

Mr. Speaker, this world-renowned botanist, who has published in the Soviet Union as well as abroad, does not present a threat to the security of the Soviet State. Her continued incarceration directly violates the Helsinki accords and the Vienna concluding document binding the Soviet authorities to the principle of freedom of immigration. I have written to President Gorbachev asking him to intercede in this case, to help allow this magnificent woman to live out the years she has left with her son and grandchildren. As much as we admire glasnost, we cannot lose sight of the fact that many Soviet Jews, such as Dr. Voronkevich, are arbitrarily denied their fundamental rights. We must, under current conditions, use all and every available means to assist those Soviet Jews who wish to emigrate from the Soviet Union.

RAYMOND W. SMITH HONORED BY THE AMERICAN CANCER SOCIETY

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. MANTON. Mr. Speaker, I have the pleasure to represent Raymond W. Smith, who currently serves as the president and chief executive officer of Maspeth Federal Savings in Maspeth, NY. Raymond Smith was born in Middle Village and has been with Maspeth Federal Savings for 40 years.

Recently, Raymond Smith was honored by the American Cancer Society, Queens division, for his outstanding leadership and effectiveness as a member of the Cancer Society's executive committee. I urge my colleagues to review the following article on the career and achievements of Raymond W. Smith which appeared in a commemorative issue of the Maspeth Federal Savings newsletter. I know my colleagues join me in congratulating Mr. Raymond W. Smith.

HAPPY 40TH ANNIVERSARY MR. SMITH!

In January of 1950, a young man started to work at the local bank, Maspeth Federal Savings, as an Assistant Teller, his name was Raymond W. Smith.

Here is a look at his illustrious career:

January, 1950: Assistant Teller.
January, 1953: Teller.
January, 1960: Auditor.
February, 1967: Treasurer.
June, 1969: Vice President & Treasurer.
November, 1972: Vice President, Treasurer & Personnel Director.
July, 1974: Elected to the Board of Directors.
January, 1975: Secretary to the Board of Directors.
June, 1975: Vice President, Secretary & Personnel Director.
November, 1977: Executive Vice President, Managing Officer & Secretary to the Corporation.
October, 1978: President.
December, 1983-Present: President & Chief Executive Officer.

Raymond Smith was born in Middle Village and in his youth moved to Maspeth,

where he attended Public High School 78. A graduate of Grover Cleveland High School, Mr. Smith served in the U.S. Army during the Korean War.

His wide ranging education in banking and finance includes special programs at the Institute of Financial Education, Adelphi University; Garden City, Hofstra University; Hempstead, LaGuardia Community College; Long Island City and C.W. Post Center, Brookville. He also attended the American Savings & Loan Institute of Indiana University.

A licensed insurance and real estate broker and a Certified Financial Planner, Mr. Smith is a past president of the Queens County Group and the Long Island Group of Savings Institutions. He is also a member of the Fiancial Managers Society and the Independent Free Appraisers. Is also a past member of the Board of Directors New York League of Savings Institution, and since 1985 a member of the Board of Directors of the Queens Botanical Gardens.

A long time community activist, he is a member of the Maspeth Lions Club and the Catholic Accountants Guild and is on the Executive Commitee of the Queens Division of the American Cancer Society, where he serves as Treasurer, and was very recently honored by the American Cancer Society, with the "Medal of Honor".

Mr. Smith and his wife, Dorothy, reside in Glen Head, Long Island. They have two daughters, Kathleen and Janet.

Once again Mr. Smith, Congratulations!

On Saturday, February 24th, 1990, the American Cancer Society, Queens Division, honored Raymond W. Smith, President and Chief Executive Officer, of Maspeth Federal Savings.

At a gala black tie affair, Terrace on the Park, Flushing Meadow Park, Queens, was turned into "The Jewels of India" with a very special Guest of Honor, His Excellency, Dr. Karan Singh, Ambassador of India to the United States.

Mr. Smith is on the Executive Committee of the Queens Division of the American Cancer Society, where he serves as Treasurer. Under his able leadership and direction, the Queens Division financial strength has grown in a constant upward motion for the past ten years, reversing a serious negative cash balance. The fund balance went from below 0% to 100%.

The Division now has the substantial resources to fund the programs and services that Queens Cancer Patients and their families so desperately need.

In addition to providing his financial acumen, Mr. Smith has been a dedicated volunteer in supporting every American Cancer Society activity and event since he joined the Board of Directors years ago.

The Honor awarded to Mr. Smith, the "Medal of Honor", is an award that not only he and his family can be proud of, but one that all Maspeth Federal Savings employees and friends can be proud of also.

Mr. Smith, our hats are off to you! Congratulations!

ADL RESEARCH REPORT

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. DYMALLY. Mr. Speaker, I wish to bring to the attention of the Members a report from the Anti Defamation League of B'nai B'rith regarding the New Alliance Party: A Study in Deception.

THE NEW ALLIANCE PARTY: A STUDY IN DECEPTION

INTRODUCTION

One of the most visible and vocal groups to emerge on the far left in recent years is the New Alliance Party. Part Marxist sect, part therapy cult, part entertainment enterprise (producer of "talent shows" and "Musicruises" in New York City featuring big name performers), the party is active across the country, running candidates in both national and local elections, and promoting its unique brand of radicalism. New Alliance Party politics is an amalgam of eccentric "therapy" theories, revolutionary rhetoric, black nationalism, and sexual references. It is tainted with anti-Semitism and an intense anti-Israel bias.

Although the party claims to be led by blacks and other minorities and by women, in fact its leadership is centered in one man: Fred Newman.

Like the extremist politics of Lyndon LaRouche (with whom the party was once affiliated), the New Alliance Party has the trappings of a cult: a one-man leadership and authority figure in Fred Newman; a small, devoted following; a wide variety of "front groups" that spread its message; an ability to raise money successfully; and a private agenda not readily evident from the party's public positions.

This report will examine the history and background of the party, its mode of operation, its recurrent themes and doctrines, and the manipulative methods it uses to advance its goals.

EARLY HISTORY

The New Alliance Party (NAP) is in large measure the handiwork of Fred Newman, a one-time college teacher whose therapeutic theory and practice have inspired the formulation of several small, cult-like organizations over the past decade. Newman was a philosophy instructor in the City College of New York when he first came to notice in the radical political community. In 1968 he formed a collective called "If-Then" which boasted that its pamphlets and brochures were the most obscene in New York. "If-Then" evolved into the Centers for Change, a commune that ran sensitivity groups; there, Newman also beagn a therapy clinic.

In 1974 Newman and his small band of followers joined Lyndon LaRouche's National Caucus of Labor Committees (NCLC), a bizarre sect making a transition from the far left to the far right. The NCLC at that time had just completed a campaign of violence and intimidation against other left-wing groups and was concentrating on charges that the Rockefeller interests and the CIA were engaged in a massive brainwashing effort. After a brief stay in the NCLC, Newman and his followers resigned to form the International Workers Party (IWP).

The IWP, formed in 1974, called for the formulation of united fronts with working class organizations and movement groups to lead to "international socialist revolution." It claimed to have disbanded in 1976, and its activists formed the New York City Unemployed and Welfare Council, whose president, Joyce Dattner, was a Newman follower. A host of other Party fronts soon appeared, including the Coalition of Grass Roots Women, New York City Union of Lesbians and Gay Men, Federation of Independent Unions, New Black Alliance and Women's Independent Democratic Organization. Finally, in 1979, the Newmanites organized the New Alliance Party.

EXTENDING THE NAP'S REACH

While there are probably not many more than a hundred hard-core members of the New Alliance Party, several thousand people may be involved in its front groups. The NAP claims to have thirteen thousand dues-payers and a hundred thousand readers of its weekly newspaper, the *National Alliance.* However, the *National Alliance* had a paid circulation of only 6,167 in 1989. On occasion NAP candidates for public office have received a substantial vote. Dennis Serrette and Nancy Ross, the NAP's presidential ticket in 1984, were on the ballot in thirty-three states; the ticket received 47,209 votes. (Serrette broke with the party shortly afterwards. Testifying in a deposition dated May 29, 1987, Serrette described the group as a therapy cult that used Newman's brand of therapy as a means of controlling its members. See Appendix B.)

1988 PRESIDENTIAL TICKET

In 1988 the New Alliance Party presidential ticket headed by Dr. Lenora Fulani was on the ballot in all fifty states. Fulani, the party's most visible and effective representative, is a psychologist and "director of social therapy" for the organization's medical centers. She was certified by the Federal Election Commission to receive federal matching funds of $205,565.18. She received a national vote of 201,430 or less than one-quarter of one percent of the total vote cast.

NEW YORK CITY: POLITICS AND PRIMARY

The party's center of activity to be on the Upper West Side of New York, where it has tried to be active in community politics. It has focused its attacks on Democratic reformers and occasionally supported some traditional Democrats. For several years its co-chair was New York City Councilman Gilberto Gerena-Valentin of the Bronx. The NAP's goal is to build an independent party to counter "fascism."

The NAP ran candidates in New York City's primary election in September, 1989. The NAP's candidate for City Council President, Rafael Mendez, received 193,842 votes, about 25 percent of the total vote cast. The party's candidate for Manhattan Borough President, Barbara R. Taylor, recevied 31,968 voted, about 16 percent of the total vote. While these results might be construed by some observers as representing a "protest vote," the party's performance in the primary was an impressive one, and its most significant garnering of votes thus far.

ROLE OF THE "THERAPY CENTERS"

Fred Newman's psychological theory, implemented by what he calls "social therapy," holds that each individual is governed by a "bourgeois ego" that prevents unity with others and encourages self-gratification. The role of the radical therapist is to lead the individual to overthow the dictatorship of the bourgeois ego and to liberate the proletarian ego by means of a personal revolution.

Newman directs a group of eight so-called "medical and therapeutic" centers in the New York area, as well as individual centers in Boston, Chicago, Los Angeles, Philadelphia, Washington, DC, Denver, and Jackson, Mississippi. The party, which claims to have regional offices in 26 states, attempts to be politically active in areas where these therapy centers are located.

The New York Institute for Social Therapy and Research, set up in 1978, became

the headquarters for Newman's therapy practice; its profits appear to be the major source of funding for the New Alliance Party. Party members and supporters have been recruited from patients undergoing therapy at the Institute.

An article in the *Village Voice* of June 1, 1982 observed: The most disturbing aspect of NAP * * * has remained conistent from the beginning: the total integration, under Fred Newman's guidance, of psychotherapy and political recruitment. * * * With about 300 patients, at least half of whom are NAP members and many of whom pay around $40 an hour for group sessions, the Institute's annual cash flow may be above $500,000 a year. A substantial part of that sum finds it way into NAP and its satellites, but there is no way of knowing how much.

Four years later, an article in *Newsday* revealed: But perhaps the most controversial aspect of the party is its network of six therapy clinics, grouped together under the Institute for Social Therapy and Research. The Institute, which sometimes works with Medicaid and Medicare patients, treats 1,500 patients a month, Newman said. Therapists connected with the party follow a "drug-free" program of treatment, stressing the social origins of emotional illnesses, he said.

Also in 1986, the black newspaper, *New York Voice* (Nov. 1, 1986) wrote of the NAP's Harlem center of the Institute for Social Threapy and Research:

The three-year-old Harlem center * * * offers group, individual, family, and couples therapy as well as workshops, seminars and medical testing and referral. * * *

"Race and class, being a woman or being gay is not neutral to emotional health but must be considered," said Dr. Fulani, who says she was radicalized in the sixties when she realized that the model for excellence was the white upperclass male. * * * Therefore, for her and for the staff and clients at the center, the emotional and medical issues they address are seen as political.

Fulani * * * has been accused by critics of brainwashing the people who come to the center. In response to these charges, she says: "To some significant extent emotional problems are social and there is a realtionship between psychology and politics. We're just more open about it."

The *Village Voice* article noted earlier (entitled "Psychopolitics") provided further insight into the cult aspects of the NAP. The article noted that Newman "has determined [the party activists"] political direction at every turn" and has "treated most of the NAP leaders" with his "social therapy." The article went on:

Understanding "social therapy" from reading works of Fred Newman and his various collaborators isn't a simple undertaking. * * * Yet half a dozen blooklets and pamphlets Newman has self-published over the past 10 years do offer some clues about what he calls the "practice of method"—which he regards as the best way to teach Marxism. * * * the end result, when a cure is achieved, is that "the patient is organized * * * [a cure] must result in the patient performing revolutionary acts * * * acting in ways which reject * * * the mode of understanding, explaining and meaning authoritarianly identified with bourgeois ideology. * * * This may sound like a formula for indoctrinating patients into NAP, and vice versa—especially because the Institute funnels money into NAP organizations, seeks members at NAP events, and teaches and trains current and prospective members of NAP and its affiliates. * * *

Former NAP activist Dennis Serrette has described the group as "basically a threapy cult centered around the person of Dr. Fred Newman." Serrette characterized NAP as "an organization that portrays itself as a Marxist-Leninist organization when, in effect, they were nothing more than a power play by an individual to just exercise control over a large number of people." He described the overall atmosphere of party meetings as follows: "I certainly felt that the folks that were in there were basically under some assumption or intimidation that they shouldn't oppose anything that came from the front. I fet that way, I felt intimidated." (See Appendix B.)

NAP ANTI-SEMITISM: THE JEWISH "DEAL WITH THE DEVIL"

For years the New Alliance Party has been plagued by charges of anti-Semitism—for good reason. In the *National Alliance* of October 25, 1985, Fed Newman referred to Jews as "the storm-troopers of decadent capitalism," and complained that they had "sold their souls to the devil—international capitalism."

Fred Newman's further remarks in this vein about Jews were contained in this *National Alliance* article (a transcript of his speech to the NAP's 1985 regional convention in Harlem), entitled "Breaking a Deal with the Devil":

* * * I'm saying all this because I want you to know what happened, what the Jewish people as a people did in response to almost being destroyed. I want to share this with you honestly and openly because it's very painful to say aloud. As a people, we responded to that genocide by selling our souls to the devil.

And the contact with the devil has been clear-cut. It become clearer every day and we have to hear it in New York and have to hear it in Johannesburg, and we have to hear it in the Middle East; we have to hear it throughout the world. The contract with the Jewish people, with the Jewish leadership, has been: "We're going to let you live. We're going to let you survive. We're going to make sure it never happens to you again as long as *you* function as the stormtroopers of decadent capitalism against people of color the world over! That's the goddamned deal with the devil * * *

You make sure that you Jews will be in the forefront in the war against the empowerment of Black people, of Puerto Rico people, in this country. We need you to play that role. We have the right to use you to play that role. We will degrade your struggle and your degradation by waving the flag of your Holocaust in the name of putting down and oppressing other sisters and brothers. * * *

A special issue of *Stono*, a new NAP publication, entitled "What of the Jew?" appeared in August, 1989. In an editorial, *Stono*—speaking "as Marxist thinkers and activists"—stated:

The deal with the devil, [i.e., Jews serving capitalism] forged in the wake of the Holocaust, was quite explicitly made; the survivors had the Scylla-and-Charybdis choice of doing the bidding of capital or dying. * * *

Elsewhere, *Stono* asserted: "Our anti-zionism needs little explanation: We oppose the Jewish colonization of Palestine."

NAP is a fervent supporter of anti-Semitic Muslim leader Louis Farrakhan. It has claimed that "it was the racist white media which inaccurately portrayed Farrakhan as anti-Semitic." In a statement supportive of Farrakhan at the party's Harlem convention in 1985, Newman again proclaimed his "devil" theory, this time attacking Zionism:

The history of Zionism, the manipulation that is Zionism, is nothing more than the making of a deal with the devil * * * To be saved * * * means to follow and build the leadership, the great struggle of people of color all over the world, and in the United States of America, to follow the leadership of the Afro-American people . . . . as Jews, as Puerto Ricans, as gays, as straights—because that's the progressive leadership that will end these sick, vulgar, inhuman deals with devils. So as with Minister Farrakhan, our party is about "doing in the devil." And we'll do in the devil in the way that we can. Whatever Minister Farrakhan can do by way of helping us in doing in the devil—we don't turn anybody away!

In 1986 Practice Press, the party's publishing arm, published a pamphlet titled "The Hon. Louis Farrakhan: A Minister of Progress." It is advertised weekly in the *National Alliance*. The introduction to the pamphlet states that Farrakhan and the New Alliance Party "are the leading targets of Zionist terror," and calls Farrakhan "the most progressive religious leader on the American political landscape."

MORE HOSTILITY TOWARD ISRAEL AND JEWS

Regarding Israel, Jews and Zionism, Newman has further stated: As a well-paid client state, Israel's function was always to defend Washington's politics and American capital in the Middle East. The dirty role for the American Zionist Jew, and the new Jew, was to support Washington's advance and survival and to use Israel as a bargaining chip in the ongoing political poker game that was post-war, cold war politics * * * the Judeo-Christian God, long controlled by finance capital, authorized the murder and dislocation of the Palestinian people. Israel's right to exist is actually capitalism's might-makes-right to create whatever the hell it needs. * * * The so-called Jewish lobby which, myth has it, spends and works feverishly to maintain U.S. support for Israel, is an insult to Jewish intelligence, and especially, Jewish entrepreneurial skills. * * * From the West Bank to the West Side of Manhattan international Jewry was being forced to face its written-in blood deal with the capitalist devil. * * * The Jew, the dirty Jew, once the ultimate victim of capitalism's soul, fascism, would become a victimizer on behalf of capitalism; a self-righteous dehumanizer and murderer of people of color; a racist bigot who in the language of Zionism changed the meaning of 'Never Again' from 'Never Again for anyone' to 'Never Again for us—and let the devil take everyone else'. * * * there was no room for Zion, no less community, no less communism, in Zionism. And international Jewry, which bravely survived German fascism, succumbed to American capitalism. Zionism was the hitman. * * *

The *National Alliance* has stridently attacked the Anti-Defamation League. On November 21, 1986, the newspaper described ADL as "A multi-million dollar slander machine against progressive, and Black and Latino leaders, and Arab and pro-Arab organizations, purposely setting these groups up for attack by an increasingly sophisticated Jewish fascist underground modeled on Israel terrorist groups" The paper's lead article in the February 2, 1989 issue was entitled, "The ADL: Jews Without Principles."

In another article attacking the ADL entitled, "ADL May Pay Heavy Price for Attacks on Fulani," the *National Alliance* (De-

cember 26, 1986) stated: Says Fred Newman, a Jew who was viciously attacked by the ADL, "The Anti-Defamation League * * * and many other so-called Jewish leadership groupings are dangerous to be sure. On the other hand they are really a pack of bullies who thrive on scaring progressive-minded Jewish people the world over. If Jews and non-Jews stand up in solidarity to these police agents, these disgraces to Judaism, these liars, the likes of the ADL will be destroyed."

TARGETING THE BLACK COMMUNITY

The NAP is actively involved in courting the black community on many fronts. In addition to its support for Louis Farrakhan, it has attempted to forge an alliance with New York radical activist Rev. Al Sharpton, and its newspaper runs a weekly ad for an "Al Sharpton Defense Fund." The *National Alliance* contains effusive praise both for Farrakhan and Sharpton on a regular basis. Moreover, in general, a great many of the articles in *National Alliance* feature subjects of particular interest to the black community, regarding political, social and cultural events.

Dr. Lenora Fulani has also been a strong supporter of Tawana Brawley, whose 1988 claims of having been raped by a white police officer were later discredited. Fulani marched in Poughkeepsie along with other backers of the New Alliance Party in March 1988, in support of Brawley's "struggle against white male supremacists." Fulani stated of Brawley: "Her struggle is our struggle. Her fight is our fight." (New York *Daily News*, March 8, 1988.)

The group's deceptively named front group, the "Rainbow Lobby," (a name very similar to that of Rev. Jesse Jackson's "Rainbow Coalition"), actively solicits money in black and liberal communities around the country. The organization's entertainment enterprise, "All Stars Talent Show," sponsors talent competitions in black communities throughout the New York area under the sponsorship of another front group, "The Community Literacy Research Project." NAP's most prominent black figure, Dr. Fulani, frequently writes for such black newspapers as *Big Red News* and the *Black American*, and party press releases about Fulani are published in many of the major black newspapers in the New York area. And, as noted, the Institute for Social Therapy and Research has a major facility in Harlem.

INDOCTRINATING STUDENTS

The American Psychological Association's newspaper, the *APA Monitor*, described the party's Barbara Taylor School in its April, 1988 issue. (Barbara Taylor is a leading member of the party.) The school comprises a day care center and elementary school at two sites in Harlem, and purportedly has one hundred students, ages 3-13. The *Monitor* reported that the school curriculum is "scientifically based" on the theories of Soviet psychologist Lev Vygotsky and, among others, party leaders Lenora Fulani, Fred Newman, and Lois Holzman. Key social issues are explored by "visiting courts and government officers, creating mock trials and role plays, and the use of the media." The school states that contributions to it are tax-deductive.

In a profile of the school, New York *Newsday* (October 6, 1988) reported that students were sent to Poughkeepsie to march in a demonstration in support of Tawana Brawley, and to be demonstration in Washington "memorializing those who suffered in the bombing of Libya." The article reported that the school had "social therapy groups" for its children, and that "numerous leaflets posted on the door promote New Alliance Party activities * * *". *Newsday* wrote:

The Barbara Taylor School seems suffused not just with an unusual educational approach but with a specific political agenda * * *

While the curriculum for social studies is "adapted" from a traditional seventh-and-eighth grade syllabus established by the Board of Education, there is a noticeable twist. "The basic foundation of the curriculum is the perspective of historical materialism," the introduction begins. "It is not the history of great men; it is the history of the organization of production. It is a working class history of the U.S."

RECENT NAP ACTIVITIES

The past year has seen an intensification of NAP activities on many fronts. NAP activities, enterprises and front groups have multiplied.

The party has recently produced two more publications: *Probe*, "the intelligence magazine of the working left," and *Stono*, "an international journal of culture and politics." Both publications are lavishly produced. *Stono*, states it is "anti-Zionist and pro-Jewish * * * we oppose the Jewish colonization of Palestine * * * a brutal settler regime supported by U.S. arms and money." *Stono* runs an advertisement for itself in *Probe* which features a picture of a young black girl holding a large rifle.

A *National Alliance* article referred to some of the other NAP enterprises: "New Alliance Productions, which produces one of the country's largest amateur talent events, the All-Stars Talent Show Network * * * Musicruise, a summer festival of 'music under the stars' on the Hudson River dayline featuring artists like Dizzy Gillespie, Hugh Maskela * * * The International People's Law Institution, which now takes on most contentious human and civil rights cases from Haiti to Harlem.* * *"

According to the Boston newspaper, *The Tab*, the NAP's Rainbow Lobby collected money from more than 1,000 people when it knocked on doors in Brookline and Newton in the summer of 1989. *The Tab* reported NAP activist Nancy Ross' assertion that the Rainbow Lobby "ranks as the 11th largest grassroots lobby in the country with about 150,000 members nationwide."

A NEW "CULTURAL CENTER"

The most significant recent development the party has reported is the construction of a new 9,000 square foot complex, the Castillo Cultural Center, in Manhattan's Greenwich Village. A two column banner headline in the *National Alliance* announced: "U.S. Left Opens $2.7 Million Psychology and Cultural Center."

The newspaper reported that the center would house the group's East Side "Center for Short Term Psychotherapy," which "grosses nearly $45,000 a month, $35,000 of which is income directly from the practice of Social Therapy." The Castillo Cultural Center, "a multi-disciplinary collective of radical artists," would occupy about 6,000 square feet. According to the article, the price tag for the space came to "nearly $1 million." The center will house an "art factory" [sic], a darkroom, a workshop and a publishing house. The article also stated that the Castillo Center "grosses in the neighborhood of $55,000 a month, or nearly three quarters of a million dollars annually." It announced a series of plays under the title, "A Festival of Revolution," including one by Fred Newman, "No Room for Zion."

An article in the *Village Voice* (October 17, 1989) referred to several artists and other cultural figures who have lent their names to the Castillo Center, and noted:

One side of Castillo's $2.7 million (!) loft serves as offices of the Institutes for Social Therapy and Research, run by Fred Newman, also head of the Castillo Center and the mastermind of NAP. * * *

How are they *paying* for it all? Lenora Fulani * * * told me this is a "white liberal question".* * * Signs on the wall record the total for last month's efforts—$33,293. At that (unbelievable) rate, the center would have eaten up nearly seven years' fundraising.

If this is an "art factory," where is the theater, the painting studio, the dance space? If this is about building a "multiracial, multi-ethnic, working people's cultural movement," why haven't community-based art groups been invited to participate?

THE MONEY TRAIL

The National Alliance has explained how the New Alliance Party raises money: "[Fred] Newman turned to the Social Therapy Centers * * *. Therapy was the one activity of the political network of which he was the architect that generated a financial surplus * * *. He assembled a team of grassroots organizers—he called them Community Social Workers—who began going door to door with a portfolio of community-based service organizations, soliciting members and contributors. The experiment was oriented towards creating a mass production organizing model that could turn the practice of political organizing into a money making activity which could in turn fund the expansion of the mass organizing * * *.

The article went on to describe NAP's outreach efforts in middle income communities following the formation of the Rainbow Lobby in 1985. "The results," the article noted, "were startling."

Within weeks the canvassers were raising between $50 and $100 in one evening shift * * *. Canvassers collected consistently large amounts of money * * *. Nearly 35,000 people have joined the Lobby in the last four years and an additional 90,000 have contributed to its cause. By 1988, the Lobby had dozens of canvassers in the field, was running a telemarketing operation to reach contributors for follow-up donations and grossed $548,000. In 1989 the Lobby has put 60 canvassers in the field and projects that it will gross $1.2 million.

* * * The scientifically proven responsiveness of broad cross sections of the population to a door-to-door appeal for more democracy gave Newman the data he needed to design the ground-breaking matching funds drive for * * *. Dr. Lenora Fulani * * *. In 1988 Fulani became the first African American woman in history to qualify for federal primary matching funds. Over 66,000 people contributed to the drive. Her campaign raised a total of $2,757,548—$938,798 of which was the matching grant from the federal government. (According to the New York Times of August 17, 1989, the Fulani campaign had adjusted receipts of $2.15 million and expenditures of $2.13 million.)

FOREIGN POLICY POSITIONS: THE LIBYAN CONNECTION

The New Alliance Party has maintained sympathetic support for the Libyan regime of Col. Muamar Quaddafi. Dr. Lenora Fulani headed a New Alliance Party delega-

tion at an "international Peace gathering" in Tripoli on April 14, 1987 to "commemorate * * * the genocidal U.S. bombing of the Gulf of Sidra and the Libyan coast." The National Alliance reported on April 24, 1987 that Dr. Fulani stated: "It was so extraordinarily moving, so powerful to be a part of an entire nation's demonstration against U.S. militarism and racism." Highlights of the conference included an appearance by Muammar el Qaddafi.

A simultaneous demonstration was held in Lafayette Park in Washington, D.C. at which the New Alliance Party participated along with the Nation of Islam, the General Conference of Libyan Students in the USA, the All-African People's Revolutionary Party (a radical group headed by Kwame Toure, the former Stokely Carmichael) and several other groups.

In November, 1987, at a tribute to Nation of Islam Minister Akbar Muhammad, Fulani again took the opportunity to express her solidarity with the Libyan people and rail against the "terror of the U.S. government on people of color around the world."

After the shooting down of two Libyan MIG planes by the U.S. in January, 1989, the National Alliance ran a full page article condemning the act. The article stated: "Outside the U.S., few take seriously the American charges that Qaddafi is a * * * terrorist," and "the specter of Libyan chemical weapons [is not] causing the rest of the world to tremble." The article continued, "no country has used chemical weapons against a civilian population on so huge a scale as the U.S." (National Alliance, January 19, 1989).

For the third year in a row, two rallies were held in 1989, in New York and Washington, marking the U.S. bombing of Libya. In New York, a reception was held at the Castillo Cultural Center. Speakers included Dr. Lenora Fulani, Fred Newman, and Dr. El Moakkif, representing the Libyan regime. The speeches condemned "these Democratic and Republican murders" (National Alliance, April 27, 1989). The article stated: "It is not generally acknowledged that the bombing of Tripoli was an assassination attempt against Qaddafi in retaliation for his—and his people's—support for liberation struggles around the world."

Fred Newman stated: "Some so-called progressives do not give unconditional support to the Libyans, the Congolese people, the Palestinians and others. They will not stand up to American imperialism regardless of the political price. That is a criminal act. * * *"

OTHER FOREIGN CONCERNS

In April, 1988, the National Alliance mourned the death of Palestinian terrorist Abu Jihad (also known as Khalil al-Wazir), former second-in-command of the PLO. (Abu Jihad was known for his involvement in Black September, the PLO underground terrorist cell of the early 1970's responsible for the 1972 Munich Olympic massacre of eleven Israeli athletes.) The newspaper published an "In Memoriam" article with a picture of Abu Jihad and Yasir Arafat, and stated that "the international progressive community" was mourning "the loss of one of its greatest political-military tacticians." The newspapers credited Abu Jihad with leading "the first Palestinian guerilla attack against Israel" in January, 1965, and lamented his "assassination by a Zionist murder squad."

The new party magazine, Stono, wrote in August, 1989: [W]e recognize the Palestine Liberation Organization as the sole, legitimate political representative of the Palestinian people. . . . While the majority of Jews continue to support the repression against the Palestinian nationalist movement, increasing numbers have become disillusioned with Jewish national utopianism."

The other major foreign policy area of concern for the New Alliance Party is the African country of Zaire. The party, its Rainbow Lobby and U.S.-Congo Friendship Committee, are actively involved in a "Dump Mobutu" (the leader of Zaire) movement. The Rainbow Lobby sponsored a forum in November, 1989, at the annual conference of the African Studies Association (ASA) in Atlanta on the subject: "Are Mobutu's Days Numbered?"

SEX AND THE NAP

The New Alliance Party's "therapy" places an emphasis on overt sexuality and its projects and publications reflect that tone.

On November 16, 1989, "Comrade Eugene" wrote to the National Alliance complaining about "x-rated graphics and other pornographic illustrations" in the newspaper. Dan Friedman, managing editor, replied that "[I]t is our duty as revolutionists to destroy the vile and oppressive organization of sex under capitalism. In order to do this work, we can not confine sex to the bedroom, to the toilet stall or to the closet. We must participate in public displays of sexuality. * * *"

Several leaders and members have testified to their "love" for Fred Newman. Dr. Lenora Fulani wrote in the National Alliance (November 16, 1989), "Yes, Fred Newman and I do have a very intimate, close, sensuous, powerful and passionate relationship."

Until late in 1989, the National Alliance ran a weekly column entitled "Sexually Speakin' and Otherwise" by therapist and NAP activist Freda Rosen that dealt with a wide range of sexual issues.

Finally, in an article in Practice (Winter, 1990), entitled "The Women I Live With," Fred Newman wrote that he considers himself "an American Marxist/Leninist revolutionary" but also "a controversial revolutionary," noting, "I don't like the institution of the family in any of its forms." After quoting an unnamed critic of the NAP who had asserted that Newman had three wives, Newman observed: "I do not 'have' three wives. In fact I have none . . . But I am terribly, terribly in love and empowered by all the women I live with." Newman's article went on to describe the personalities of, and his relationships with, seven women who have all taken active part in various NAP activities.

TO SUM UP

Given its ability to attract money, votes, attention and acceptance, its tactics of deception and manipulation—as well as its radical brand of anti-Semitism—the New Alliance Party is of concern to the democratic community. It is an organization on the fringe of American politics whose history and propaganda suggests a strong affinity with other anti-democratic and anti-Semitic forces in our society.

APPENDIX A

New Alliance Party front groups and enterprises include the following entities:

*The Rainbow Lobby (Washington, DC).[1]

U.S. Congo Friendship Committee.

Musicruise (Boat cruises in Manhattan that feature famous musicians).

All Stars Talent Show Network.

Harlem Institute for Social Therapy and Research.

Bronx Institute for Social Therapy and Research.

East Side Center for Short Term Psychotherapy.

New York Institute for Social Therapy and Research.

Stewart Polk Center.

Free legal clinics (one in Harlem, three in the Bronx).

People's Independent Democratic Club (Bronx).

Association of Progressive Helping Professionals.

The Barbara Taylor School (Harlem).

Castillo Cultural Center (Greenwich Village).

Coalition for a Progressive New York.

International People's Law Institution.

Adam Abdul Hakeem Coalition to Save Our Youth.

New Alliance Productions.

This group also publishes four periodicals: the *National Alliance, Practice* (a journal of "psychology and economics"), *Stono* and *Probe.*

The NAP also maintains its "therapy centers" in Boston, Chicago, Denver, Jackson, Mississippi, Los Angeles, Philadelphia, and Washington, D.C.

APPENDIX B

AN INSIDER'S VIEW

Dennis Serrette, former NAP presidential candidate, provided an inside view of the party when he was a witness on May 29, 1987 in the lawsuit of plaintiff Emily Carter of the New Alliance Party against the Jackson (MS) *Advocate.* The Mississippi newspaper had run articles critical of the NAP. Questioned by New Alliance Party lawyer Harry Kresky, Serrette said that the only person wielding absolute power in the party was its leader, Fred Newman. Serrette stated: "The inner circle to me was only Fred and those who Fred may have had to share his thinking, who carried out his bidding * * * his wives * * * I think Hazel Daren, Gail Elberg * * * and Debra Greene. Those were the people who live with him * * *."

Serrette stated that another organization, the International Workers Party, was in effect the "underground" apparatus of the party. He testified: "Well, the New Alliance Party was basically an organization put together by * * * Fred and some of those who may have served him, to possibly hide the existence of IWP. * * * it was considered secret * * *."

The group's focus on "therapy" was particularly disturbing to him, Serrette asserted. "They seemed more preoccupied to me around therapy than they did [with regard to] the political." Serrette found many similarities between the behavior of Lyndon LaRouche's groups and the Party, including its use of character assassination: " * * * their attempts to uncover and to defame me by calling up people to talk about my sexual life. * * * I felt that that was sort of like a tactical thing that the LaRouche people might be using * * * there was no other organization I could ever recall that controlled their people the way the New Alliance Party * * * with therapy, had controlled their people, and the National Caucus of Labor Committees [a Lyndon LaRouche group] in my opinion * * *

[1] Not affiliated with Rev. Jesse Jackson's National Rainbow Coalition, Inc.

seemed to have absolute control of their people in basically the same way. So those are some of the similarities that had me thinking that, well, I really have my doubts about what I was a part of."

"TACTICAL" EFFORT TOWARD BLACK COMMUNITY

Instead of being a "black-led group" as it pretended to be, Serrette said, "the party exploited this imagery, but it was a lie, it was clearly a tactical means of using blacks, and a racist scheme of using black and Latino and Asian people to do the bidding of one man, namely Fred Newman * * *" Serrette went on to state the treatment of blacks within the New Alliance Party was "unequal" and "very abusive." He found this similar to the treatment of blacks by LaRouche's National Caucus of Labor Committees.

Serrette stated that he began to be suspicious about who was running things when he noticed that "there was a lot of people who weren't advertised as operatives or officers in the New Alliance Party, which tended to have very high * * * amount of respect within the New Alliance Party and seemed to be giving orders, you know running things, it just seemed far too organized, it seems like the people in charge are not always the people who are making the decisions around here. * * *" It was at this point, he said, that he learned of the existence of a "secret organization, and that they were asking me to be a member of that organization, and the nature of it was that it was Marxist-Leninist. * * * I said absolutely, you know, this is great, you know, but what is it?" Serrette stated that this "secret" organization was the International Workers Party, and "They made it clear to me that this was a secret organization."

A SECRET AGENDA

Serrette was queried: "Why was it secret?" He answered: "Well, the reason that I was given was that they didn't feel that an above-ground organization would be able to carry out, you know, changing this country in an effective way, meaning the changing of the social order * * * The New Alliance Party was basically * * * above-ground for the IWP." He went on to state: "It basically served as an electoral function to attract people there and to organize them into organizations and eventually take them in as members of, I imagine the IWP."

THERAPY AS MANIPULATION

Asked about the function that "therapy" played in the group, he said "Fred Newman was the chief therapist. It was my experience that he was, he and whoever he may have appointed for those who trained therapists and generally, it was those he placed in control and in power. Lenora Fulani is the chief therapist, that's the way she was in there. * * *"

Serrette defined the therapy as "a way of controlling every aspect of their lives."

Asked about how the party financed itself, Serrette said that the bulk of finances came from the therapy centers. He was asked: "How much money are we talking about?" He answered: "A lot of money, a lot of money. As a matter of fact, it was stated in one meeting * * * that the organization. * * * had made a million dollars that year."

Serrette was asked: "Do you know or do you have an opinion whether members of this organization would kill if they were so instructed by Mr. Newman?" He responded: "I wouldn't be surprised of anything that this organization might do upon instruction from Fred Newman. I certainly believe that given the therapy and the way that people have taken directly to him, that they would do anything, just about, that he would ask them to do."

Referring to the group as a "cult," Serrette summed up his opinion of the NAP by characterizing it as "an organization that portrays itself as a Marxist-Leninist organization when, in effect, they were nothing more than a power play by an individual to just exercise control over a large number of people." He described the overall atmosphere of party meetings as follows: "I certainly felt that the folks that were in there were basically under some assumption or intimidation that they shouldn't oppose anything that came from the front. I felt that way, I felt intimidated."

IN RECOGNITION OF DESOTO SCHOOLS SUPERINTENDENT FRANK MOATES

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. FROST. Mr. Speaker, on July 1 of this year, Mr. Frank Moates will retire after serving 16 years as the superintendent of public schools in DeSoto, TX. Before all my colleagues, I would like to personally commend and thank Superintendent Moates for his work on behalf of the families in DeSoto.

We entrust no one with a more important assignment than the educators of our children. We ask them to prepare and guide our most precious resource, our children. Frank Moates, throughout his distinguished career has indeed proved worthy of this trust.

A recent profile from the Dallas Morning News summarizes well Superintendent Moates' contributions to the DeSoto community and to our Nation. I would like to share it with my colleagues.

[From the Dallas Morning News, Apr. 29, 1990]

DESOTO'S MOATES RETIRING

(By John Yearwood)

J.B. Boisse was returning to class at Frank D. Moates Elementary School when he spotted a familiar figure strolling down the hall.

The 9-year-old ran past his third-grade classroom to give a big hug to Frank Moates, who held up his hand for a "high five" from the youngster.

"Are you doing well today?" asked Mr. Moates, before hugging J.B. and walking him to class.

Inside the classroom, J.B.'s classmates all ran to Mr. Moates, offering hugs and kisses.

"They are all my kids," said Mr. Moates, the DeSoto school superintendent, "and they are all special."

The trip to the school was routine for Mr. Moates. But every visit during the last few months has taken on special significance. On July 1, Mr. Moates will retire after 16 years as superintendent.

He will be replaced by John Moore, 49, assistant superintendent of instruction with the North Little Rock, Ark., Public School District.

Mr. Moates, 59 who was paid an annual salary of $77,000, will leave the job as one of the district's most popular superintendents.

"I like him a lot. I feel like he's a close friend," said J.B. "He's a real nice guy, and I really appreciate him. I don't want him to leave."

School board President Gordon Roak said it will be difficult to forget the mild-mannered Mr. Moates and his contributions to the district.

"He has gotten us through a lot of changes and transitions and allowed the district to come out ahead and stay ahead," Mr. Roak said.

During Mr. Moates' 16 years at the helm, the DeSoto district doubled its enrollment, built a half-dozen new schools, improved academic test scores and jumped to Class 5A athletic competition.

DeSoto residents can feel proud to send their children to the district's schools, he said.

"I feel we compare very favorably with surrounding districts. If you look at test scores, we are always above state and national norms," said Mr. Moates. "We are very proud of this. We feel that we more than meet the test of quality schools."

The task of shaping the district into one that earned the respect of others was not always without controversy. Two years ago, school officials won a bitter showdown with some residents in a tax rollback election. Mr. Moates became the district's point man and ended up in the center of the issue.

Mr. Roak said he came to truly admire Mr. Moates during that tumultuous period, as he fended off personal attacks by proponents of the rollback.

"It took a pretty heavy toll on him," Mr. Roak said. "Despite the personal attacks, he stood tall."

Although the rollback campaign became negative, some proponents now say they harbor no ill feeling toward Mr. Moates and they wish him well in retirement.

President Tommy Cole, who supported the rollback, said he has since lost any bitterness he had toward the superintendent and the school district. There was never any doubt, he said, about whether Mr. Moates was doing a good job running the district.

"He has done fine, and I wish him well," Mr. Cole said. "When you are in a town 16 years, you aren't going to make everybody happy. You can't. But right now, nobody's mad at him."

Mr. Moates said he always was careful about how he spent school funds. The tax dispute made him more frugal and sensitive to residents' concerns, he said.

As a youngster growing up in Beaumont, Mr. Moates never thought he woud one day be fighting for funds to build schools so children can have a better education. He said becoming an educator was not one of the careers he had "a burning desire" to pursue.

"I was intrigued by law enforcement," he said.

It wasn't until he was a college student in Beaumont that he became interested in teaching.

Mr. Moates said his love for teaching began while he was working as a teacher's aide at an elementary school to help pay his way through college.

"My experience with teachers there and the young people probably had the biggest single impact on the change," he said.

After graduating from the University of Texas at Austin, Mr. Moates went to work for the Burleson Independent School District, becoming a teacher and assistant superintendent.

He spent 10 years in Burleson before being named superintendent of the Malakoff Independent School District.

Mr. Moates was hired as superintendent in DeSoto in 1974 to replace Fred Nickles, who had retired. He said more responsibility and a new challenge brought him to the southwest Dallas County suburb.

"I was looking for a little larger district," he said.

Malakoff had about 2,000 students compared with DeSoto's 2,800.

Dr. Bob Coggins, who was on the school board when Mr. Moates was hired, said he impressed school board members throughout the interview process.

"The thing that impressed me the most was when we were discussing salary," Dr. Coggins said. "We asked him what he wanted to be paid. He said, 'I'll tell you what. You pay me what you want for the first year, and if I don't like you at the end of the year, I'll leave. If you don't like me, you don't have to renew my contract.'

"That's the way it was left. He was hired at the salary of the outgoing superintendent."

Dr. Coggins, who has since left the school board, gave Mr. Moates high marks for the job he has done.

"I feel like he ran a good, tight ship and did what the board asked him," Dr. Coggins said.

Mr. Moates said he received several job offers during the last 16 years, but always decided to stay with the DeSoto district because of the backing of staff members and the community.

"The public has been very supportive," he said. "It's a comfortable place to be."

He also credited students with his decision to remain in DeSoto. He said he tries to visit the district's 10 campuses often.

At Moates Elementary, principal E. Mac Geren said the high fives and hugs Mr. Moates received from students were genuine.

"The reaction he received today was spontaneous and it would be tomorrow," said Mr. Geren. "He's just very student-oriented and well-liked by students."

THE ROLE OF THE NATIONAL COUNCIL ON DISABILITY IN THE DEVELOPMENT OF ADA

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. GINGRICH. Mr. Speaker, The National Council on Disability is an independent Federal agency comprised of 15 Presidentially appointed members. The Council's mandate is to review policies and programs which impact upon persons with disabilities and make recommendations to the President and the Congress concerning how these policies can be improved. In 1984, the National Council issued a policy statement entitled "National Policy for Persons with Disabilities," which articulated the need for legislation which would provide comprehensive civil rights protections for persons with disabilities. After the publication of this statement, the National Council held numerous forums across the country in which it heard from literally thousands of persons with disabilities about the discrimination they face every day.

In February 1986, the National Council issued a major report to the President and the Congress entitled, "Toward Independence." In this report the National Council outlined the key components required for comprehensive civil rights legislation protecting persons with disabilities. This report was well received by the Congress and has become central in the development of the "Americans With Disabilities Act" [ADA]. In January 1988, the National Council issued another report, "On the Threshold of Independence," in which the National Council authored the specifics of the "Americans With Disabilities Act of 1988." The goals of the ADA, currently being debated by the House of Representatives, are to remove attitudinal, architectural, transportation, communication, and employment barriers which exist for persons with disabilities in American society.

I agree with the National Council on Disability in its belief that the provisions of this legislation send persons with disabilities a clear message that their dream of equal civil rights protections will soon become a reality.

TRIBUTE TO JOHN M. "MAC" AICHELE

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. GEKAS. Mr. Speaker, I rise to ask my colleagues to join me in recognizing a Pennsylvania whose accomplishments and contributions to the community are indeed exemplary.

John M. "Mac" Aichele is an example of the spirit of community service. He is retired president and former chairman of the board of the Milton S. Hershey School in beautiful Hershey, PA. This school was founded to provide a home and academic training to orphaned boys. The tradition of dedication to others has continued through the years as countless students have been educated on the school's sprawling campus.

In addition to overseeing the education of his students, Mac has been involved with a long list of organizations, including the Harrisburg Community Theater, the Hershey Sumphony Orchestra Association, the M.S. Hershey Foundation, and the Dauphin County Mental Health/Mental Retardation Board. He currently serves on the boards of the Boy Scouts of America, Family and Children's Service, and Ronald McDonald House.

Clearly, Mr. Speaker, Mac is one of the "points of light" on which our Nation depends. His selflessness represents the very best that we can be. On behalf of my constituents, I thank him for his work.

RICHARD COHEN ON "MADNESS AND MALICE" IN THE MIDDLE EAST

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. LANTOS. Mr. Speaker, the anguishing event of last weekend in Israel in which a mentally unstable Israeli killed eight Palestinians in a reminder to all of us of the irrational tragedies that far too often take place despite concerted efforts of government leaders and officers to prevent them.

Today's Washington Post published an excellent article by columnist Richard Cohen which puts this tragic event in its appropriate context. As Cohen notes, when a similar event took place in 1985 and an Egyptian soldier stationed in the Sinai went berserk and killed seven unarmed Israeli tourists, the Israeli Government responded by deciding that a soldier is not a nation. But in the aftermath of this latest tragedy, Arab leaders throughout the Middle East—including so-called moderates, as well as the PLO—have used the occasion to fan the flames of violence and unrest in Israel.

Mr. Speaker, I ask that Richard Cohen's outstanding article be placed in the CONGRESSIONAL RECORD, and I urge my colleagues to give it careful and thoughtful attention.

MADNESS AND MALICE

(By Richard Cohen)

In 1985 an Egyptian solider stationed in the Sinai went berserk, killing his own commander and seven unarmed Israeli tourists. A number of the tourists, including a 10-year-old boy, apparently bled to death because other Egyptian soldiers would not permit an Israeli medical team to aid the victims. For a moment, the Middle East tensed up and then relaxed. In essence, Israel said that one soldier is not a nation. The peace with Egypt was never in doubt.

Now, though, something similar has happened within Israel. There, a former soldier also has gone berserk, killing seven Palestinians. The gunman has been characterized as deranged, attributing his action to the loss of a girlfriend and an alleged rape by Arabs when he was a boy. Nonetheless, both the Palestine Liberation Organization and several Arab governments have not hesitated to use this horrible incident in their propaganda war against Israel.

Kuwait simply labeled the killer a "Zionist" and said his action would "lead to a new cycle of violence in the region." A PLO spokesman called the killings "a message to the Arab summit" about to begin in Baghdad, and a PLO official, Yasser Abed Rabbo, asked Egypt to close the Israeli Embassy in Cairo. "What is happening in the occupied territories is an act of organized crime carried our under the supervision and planning of the Israeli government," he said. From Damascus and Amman have come similar statements.

Well, first of all, the killing did not take place in the Occupied Territories, but in Israel proper. (The victims were, however, residents of the occupied Gaza Strip who had come to Israel seeking work.) In the second place, there is not a scintilla of evidence that the Israeli government had anything to do with the killings. If it had, then possibly the gunman would have been allowed to escape and not have been arrested. The current Israeli government is capable of doing some bonehead things, but not even its severest critic would suspect it of wanting to foment the riots in the Occupied Territories and Israel proper that followed the killings.

Maybe it's understandable that Arab leaders (and non-Arab ones in Tehran) would overreact to the recent massacre. After all, both the West Bank and Gaza Strip are under military occupation, and from time to

time it's a harsh one. The intifada proceeds, and with it comes a daily loss of life, including, of course, children. To some Israelis (and others), these deaths are the inevitable result of rebellious activity, such as stone throwing. To Arabs though, the victims are just kids who want to live in a Palestinian state. It's the occupation that's killed them, not their behavior.

Palestinians long ago made the point that they are entitled to their own state. But they have not yet made another and possibly more important point: that if they get that state they will not continue their war against Israel. Very likely, Arab leaders know that the rampage of a single Israeli does not represent government policy. Yet their followers are a different matter. They are quite willing to believe—indeed, for generations they have been taught—that the so-called Zionists are ruthless killers. Until recently, for instance, the PLO itself did not stoop to distinguish between soldiers and, say, women and children on a kibbutz.

Now both the PLO and certain Arab governments will not distinguish between state policy and a single man who went berserk. By inflamming populations in their own countries and within Greater Israel (Israel plus the Occupied Territories) they show themselves to be more passionate than logical and hardly punctilious when it comes to truth. By claiming that the massacre is anything more than a tragedy, they are propagating a lie.

But there is yet another issue that has to be dealt with. Washington has been putting pressure on Israel to come to the bargaining table and deal with the Palestinians. So far that hasn't happened. But if someday it should, Israel has to be assured that the Palestinian leadership can sell some sort of compromise to its people. Given the performance of the leadership following the shooting, any compromise will be a harder sell. Indeed, Israelis can argue that when it counts, the PLO leadership reverts to the same old rhetoric—and maybe the same old terrorism.

It would have been wonderful if the shootings had been followed by efforts on the part of Arab leaders to calm the situation. It would have been wonderful if they had said that an Egyptian had done something similar. It would have been wonderful if any Arab leader, including Egypt's Hosni Mubarak, had repeated what Mubarak himself said following the 1985 massacre in Sinai: "a limited incident that can happen anywhere, carried out by an insane man."

Anywhere, by definition, includes even Israel.

THE WONDERFUL WOMEN OF HADASSAH

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. BURTON of Indiana. Mr. Speaker, I wish to pay a special tribute to Hadassah, the largest Jewish women's organization in the world. The tireless women of Hadassah are indeed great humanitarians and they deserve our support.

The Hadassah Medical Center in Jerusalem is one of the finest medical institutions in the world. In addition, it provides the very best care to Jews and Arabs alike. Many Arabs wounded as a result of the terrible unrest in the West Bank have been treated at Hadassah. No one seeking treatment has been turned away.

Hadassah has also trained many Arab doctors and nurses from the West Bank and Gaza. The Palestinians, in Israel and in the territories enjoy the highest health care standards of any Arab population in the mideast. I have also been particularly impressed with Hadassah's activities in Africa. They played a key role in the construction of a brandnew, top-notch hospital in Kinshasa, Zaire. They also set up a unique eye clinic in a remote area of Kenya to treat 600 blind patients.

It is my great pleasure to salute the wonderful women of Hadassah, and I would like to enter into the RECORD a press release announcing Hadassah's eye project in Kenya.

HADASSAH DOCTORS BRING GIFT OF SIGHT TO BLIND KENYANS

NEW YORK, March 26.—Six hundred blind men, women and children in a remote section of the African nation of Kenya will see—some for the first time—after a unique expedition, in April, by eye surgeons from Hadassah-Hebrew University Medical Center in Jerusalem. The doctors will perform free eye operations on blind sufferers of cataracts, retinal detachment and other eye diseases.

In Kenya, leaflets and posters written in Swahili are publicizing the medical expedition, April 12 to 16, proclaiming, "Free Medicine, Free Operations, Free Eye Camp by Hadassah-Hebrew University Hospital in Jerusalem."

Professor Hanan Zauberman, head of the Ophthalmology Department of Hadassah-Hebrew University Medical Center, in Jerusalem, will lead the team from Israel, which includes senior Hadassah ophthalmologist, Dr. Itzhak Hemo, as well as several Hadassah nurses.

Kenyan doctors and the Nairobi-based Royal Commonwealth Society for the Blind will assist the Israeli team. The Nairobi Hebrew Congregation and the Lions Club of Kenya are co-sponsoring the event with Hadassah and the Israel Foreign Ministry.

Altogether some 600 Kenyans are expected to travel to Kabarak, where the surgical team will operate at a compound called President's Farm. Most of the patients will come from the Nekuru area in Kenya. Kabarak is 180 kilometers north of Nairobi.

Hadassah Hospital will loan advanced equipment for the unusual surgical camp, enabling doctors to remove cataracts through three millimeter incisions instead of routine 10-millimeter incisions.

Advanced vitreoretinal surgery will be performed for blind patients suffering from long-standing retinal detachment, according to Professor Zauberman in Jerusalem.

In an exchange component of the program, African doctors and nurses travel to Jerusalem for training in the Eye Department at Hadassah Hospital. Other countries that have received assistance from Hadassah in the field of eye care include, Liberia, Tanzania, Ruwanda, Ethiopia and Lesotho. Thirteen doctors from Africa and Latin America are currently studying in the three-year post-graduate course at Hadassah in Jerusalem.

During the past 10 years, the Hadassah Hospital's Eye Department and the Foreign Ministry have established eye centers in three African countries—Kenya, Malawi and Swaziland.

Hadassah's eye-care work in Africa began 30 years ago under the direction of the late Professor Isaac Michelson. Liberia was the initial African nation to establish a relationship with the Eye Department at Hadassah Hospital. Today, there are major Hadassah eye clinics in Kenya, Swaziland and Malawi.

Hadassah, the Women's Zionist Organization of America, with 385,000 members in 1,500 chapters and groups in the United States is the largest Zionist organization in the world. It supports medical, educational and youth resettlement programs in Israel. In the United States, it sponsors youth groups and offers educational programs for its membership.

IN HONOR OF ANTHONY J. IURATO

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to Anthony J. Iurato on the occasion of his retirement as the chief of police of the city of Hackensack.

Tony is a lifelong resident of Hackensack. He has been married for many years to the former Betsy Lee Coffey. They have 3 daughters, Sandra Lynn Sharkey, Angel Stoegner, and Margie Ann Torrance, 13 grandchildren and 1 great-granddaughter.

Tony is a veteran of World War II when he served from 1943 to 1946 as an aerial gunner in the U.S. Army Air Force. He then attended the New Jersey State Police Academy and was appointed patrolman in the Hackensack Police Department on January 3, 1950. He rose quickly among the ranks, being promoted to sergeant in 1953, lieutenant in 1956, deputy chief in 1965, and chief of police in 1966. Tony's hard work and determination to serve the community of Hackensack is clear in that he has dedicated his life to the protection of his hometown.

Tony has attended numerous technical schools in police practice, procedure and administration, including FBI. National Academy, Executive Command Course, and Management Seminar. He is a life member of the International Association of Chiefs of Police, a life member of the New Jersey State Chiefs of Police, and a member of the Bergen County Police Chiefs Association. He was elected honorary president of Bergen County Police Chiefs Association, he is a member of the Patrolmen's Benevolent Association, and the International Narcotics Association. He is the cofounder of Bergen County Narcotics Task Force, and member of the American Legion—Honor Legion Police Departments of the State of New Jersey.

Tony has received numerous awards including three Exceptional Duty Medals and Chief's Achievement Award from the Bergen County Police Chief's Association.

He was appointed by the Governor to the State Law Enforcement Planning Agency in 1988. He is currently serving as the deputy

city manager of Hackensack. This is a man who never hesitates to share his time and talent, energy and enthusiasm with the community he so loves.

Mr. Speaker I am proud to join in paying tribute to this exceptional man. He is one of those outstanding few who truly make a difference in society. I extend my best wishes to him on this special occasion.

COSPONSORS OF HOUSE RESOLUTION 393

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. YATRON. Mr. Speaker, House Resolution 393 which I sponsored concerning the Tiananmen Square massacre of June 4, 1989, in the People's Republic of China passed the House by voice vote on Monday, May 21, 1990.

In the process of considering this legislation, 10 of our colleagues were inadvertently left off the cosponsor list. All of these Members have been leaders in promoting human rights in China. At this point, I would like the RECORD to reflect that the following Members were intended to be cosponsors of House Resolution 393:

Representative CHRISTOPHER SMITH.
Representative ENI F.H. FALEOMAVAEGA.
Representative JAIME B. FUSTER.
Representative SAM GEJDENSON.
Representative FRANK MCCLOSKEY.
Representative ROBERT J. LAGOMARSINO.
Representative LAWRENCE J. SMITH.
Representative DOUGLAS BEREUTER.
Representative ELIOT L. ENGEL.

VERMONTVILLE MAPLE SYRUP FESTIVAL

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. WOLPE. Mr. Speaker, I rise today in honor of the Vermontville, MI, Maple Syrup Festival on the occasion of its 50th annual celebration.

Although the festival is celebrating its 50th anniversary, maple syrup production in the Vermontville area actually goes back hundreds of years to members of the indigenous Potawatomi tribe, who later taught some white settlers from Vermont how to produce the sweet syrup. Since that time, syrup has been produced and sold in Vermontville.

During a conversation at a Vermontville barber shop in 1940, Milton Lamb, an area businessman, suggested that the village have a gathering to promote both community spirit and the community's product, maple syrup. Later that year, the Vermontville Maple Syrup Festival Corp. was formed and the maple syrup festival was launched. The first festival was held in the high school gymnasium with approximately 250 people attending the pancake and syrup dinner. More than 2,500 people came to see Miss Phyllis Hager crowned the first Maple Syrup Festival Queen.

In the ensuing 50 years the festival has grown from its small beginnings to become one of Michigan's preeminent yearly events—and a major source of community income. The festival now includes carnival rides, parades, arts and crafts, and other events. The pancakes and maple syrup, however, continue to be the main attraction for the many thousands of people throughout Michigan who are drawn to Vermontville for this special occasion.

Mr. Speaker, with the support of the good people of Vermontville, the maple syrup festival has become one of those unique events that help define the community spirit of the small towns of our Nation. It is my sincere wish that this festival continue to enjoy another 50 years of success.

IN RECOGNITION OF AUSTIN, TX, MAYOR TOM MILLER

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. PICKLE. Mr. Speaker, today I am introducing legislation which would redesignate the Austin Dam located near Austin, TX, as the "Tom Miller Dam."

This dam has been known locally as the Tom Miller Dam since its construction in the late 1930's. The current structure stands on the same site where two previous dams had been built and destroyed. The first was destroyed in an April 7, 1900, storm that brought 5 inches of rain to the central Texas hill country in 15 hours. A second dam was later erected on the same site, but it was destroyed by two floods in 1915. For more than 20 years, the city did not try again to rebuilt the Austin Dam. However, in 1936 Mayor Tom Miller initiated the drive to obtain funds for the construction of a third dam at this same location.

Mayor Miller approached the Lower Colorado River Authority for funds in 1936. The LCRA, only 3 years old at the time, was completing Buchanan and Inks dams and had begun construction of Mansfield Dam. Mayor Miller and a contingent of LCRA and local officials joined forces to obtain Federal funds for the new dam. Lyndon B. Johnson, just elected to Congress, and Alvin Wirtz, then general counsel for LCRA, worked with the Public Works Administration, the Bureau of Reclamation, Reconstruction Finance Corporation, and other agencies to obtain loans and grants amounting to $14 million for the reconstruction of this important dam.

The dam was dedicated April 6, 1940 and today remains a vital part of LCRA's flood control system for cental Texas. I can remember what life in Austin was like before this dam was built. I was a student at the University of Texas when the flood of 1935 nearly swept the whole city away. And I was attending classes when a second flood devastated the city in 1938. With the completion of the Tom Miller Dam, the people of Austin could utter a collective sigh of relief. This dam has become a symbol of strength and security for the community.

At the time of its dedication, the dam was named by the Austin Chamber of Commerce after Mayor Tom Miller for his part in the rebuilding project; however, the Federal Government does not normally approve of federally-funded projects being named for living persons and denied the chamber's request. Thus, in Washington, the structure is recorded as "Austin Dam." Yet if you ask anyone in Austin, TX, the name of the dam, the answer would be "Tom Miller Dam."

The purpose of this legislation is to officially bestow upon this dam the name it has unofficially had since 1940, the "Tom Miller Dam." It is appropriate that one of the most important structure in Austin should bear the name of one of the city's most colorful leaders. Tom Miller was one of the city's greatest public servants, and Austin owes much of its current prosperity to his judgment and foresight.

Tom was a strong supporter of Franklin Roosevelt and the New Deal, and he put himself in a position to support the programs that literally built the modern city of Austin. The dams and lakes above and below Austin stand as evidence of his achievement, and the Lower Colorado River Authority and rural electrification are evidence of the progress he helped to initiate. The lives of all the residents of central Texas have been touched by Tom Miller.

When the history of Austin is written, one of the brightest chapters will be dedicated to Tom Miller. Time cannot obscure the fact that he was truly one of Texas' great leaders, and I hope the Congress will recognize his contributions by acknowledging officially the designation of the Austin Dam as the "Tom Miller Dam."

TRIBUTE TO CAPT. DAVID L. COFFY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Capt. David L. Coffy, of my 17th Congressional District of Ohio, who is receiving the Congressional Fire Service Institute Heroism Award.

On the morning of April 8, 1990, Captain Coffy rescued twin 3-year-old boys and their mother from their burning home. He arrived at the burning home and began assessing the situation. He learned that the two boys and their mother were trapped on the second floor of the house. Captain Coffy entered the house at the second floor window and immediately located Luke Timko and passed him to a policeman who was waiting on a ladder. He then located the second twin, Daniel Timko, who was also passed out to a waiting police officer.

Captain Coffy entered the house a third time to locate Patricia Timko, the mother of the two boys. He located her in her bedroom and proceeded to remove her from the burning house when a fellow firefighter arrived and assisted Captain Coffy.

Captain Coffy's efforts were valiant and above and beyond the call of duty. He risked

his own life to save the lives of three other people. He displayed outstanding courage and fortitude and he is more than deserving of the Congressional Fire Service Institute Heroism Award. We owe him a great deal for the service and dedication he has given to the Brookfield Township community.

H.R. 4868, THE SOCIAL WORKERS ENDORSE SUBSTANCE ABUSE TREATMENT CORPS ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. STARK. Mr. Speaker, last week, Representatives GREEN, GLICKMAN, GRANT, and I, introduced H.R. 4868, the Substance Abuse Treatment Corps Act. The bill is designed to help students obtain training in alcohol and drug abuse treatment in exchange for service in areas of the country where there are shortages of substance abuse treatment personnel.

I am pleased to report that the National Association of Social Workers has endorsed this proposal and I hope other Members of the House will join us in achieving the enactment of this legislation.

The NASW letter follows:

NATIONAL ASSOCIATION OF SOCIAL WORKERS INC.,
Silver Spring, MD, May 15, 1990.

Hon. FORTNEY H. STARK,
U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE STARK: On behalf of the 127,000 members of the National Association of Social Workers (NASW), I wish to extend our association's support for the Substance Abuse Treatment Corps Act. Your leadership in introducing legislation which responds to the critical shortage of alcohol and substance abuse treatment professionals is to be commended.

NASW believes that the National Health Service Corps model offers a proven means of recruiting, training and placing the needed professionals in underserved rural and urban areas. In addition, the approach provides the necessary educational assistance by which dedicated individuals who reside in communities with a high incidence of alcohol and substance abuse may become qualified treatment providers, thus encouraging retention of the needed providers once the service obligation is met.

NASW applauds your continuing efforts in developing legislation which responds to the treatment needs of individuals and their families who suffer from alcohol and substance abuse. We look forward to working with you throughout the development of this important legislation.

Sincerely yours,

MARK G. BATTLE, ACSW,
Executive Director.

TRIBUTE TO WESTSIDE UNITED METHODIST CHURCH OF PATERSON, NJ, ON ITS 100TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. ROE. Mr. Speaker, it is with the deepest reverence and the greatest sense of pride that I rise today to salute an outstanding house of worship in my Eighth Congressional District of New Jersey which, for a full century, has been a spiritual focal point and a beacon of faith for countless numbers of worshipers in the greater northern New Jersey area.

I am speaking of the Paterson Westside United Methodist Church of Paterson, NJ, which is celebrating its 100th anniversary in 1990. This historic occasion was observed with a special celebration at the church on Sunday, May 20, and was tremendous source of pride to all in attendance, and specially the pastor, Rev. Warren R. Brandt, Resident Bishop Neil L. Irons, and district superintendent, Rev. Hae Jong Kim.

Mr. Speaker, the history of Paterson Westside United Methodist Church is indeed a rich one. For the benefit of you and our colleagues, I would like to insert for the RECORD the history of this truly fine house of worship:

CHURCH HISTORY

Its early roots go back to 1868, three years after the end of the American Civil War, when a Sunday School was first organized. The Stony Road Mission, or the mission on the mountain, was established by the Cross Street Church to serve the western part of Paterson. In 1873 this mission was established by James Steele and Cornelius Velsor. The mission and its forerunner, the Sunday School, met in private kitchens, a wood shed and the depot of the Lackawanna Railroad to serve the religious needs of this determined group of Christians. Finally a small chapel was built in 1876 on the site of the present church.

On April 8, 1890, the Rev. J.H. Robertson was the first ordained minister assigned to the group. True to Wesley's tradition, he rode the Paterson Methodist Circuit serving the Calvary Sunday School, West Paterson (Westside) Sunday School and Cedar Cliff. Preaching in the morning at Calvary, and afternoons at Cedar Cliff, Rev. Robertson finished the circuit by preaching evenings at West Paterson. A month later, May, 1890, the Stony Road mission was organized as the West Paterson Methodist Episcopal Church and on June 1, 1890, 24 members were received from Cross Street Church along with three members accepted on probation.

Calvary and West Paterson shared pastors from 1891 until the spring of 1893 when West Paterson was made a separate appointment and Rev. H. A. G. Westerfield was appointed pastor. The last services were held in the old chapel on July 31, 1904. The new church, which was to cost $6,000.00 had the cornerstone laid on September 24, 1904.

Rev. H. C. Lytle, who had been appointed pastor in 1903, saw his new church finished by December 1904 and dedicated on January 15, 1905. Within two years the church building debt had been paid off through pledges and chowder sales held by the Ladies Aid Society.

The enthusiastic congregation had no sooner completed its church when it saw the need for a recreation clubhouse and in 1906 a big frame building complete with a bowling alley and basketball court was constructed. The structure served until fire destroyed it in 1923. It was rebuilt in 1924 being replaced by the present masonry structure and renovated in 1962.

Fire has proved a nemesis not only for the church hall but the sanctuary itself. Fires on January 16, 1924, and February 26, 1939, damaged the structure and repairs were made but the fire on January 25, 1941, completely gutted the building with the cornerstone and some furniture being salvaged. The congregation met in the chruch hall until the new structure was opened and dedicated debt free on December 14, 1941. The cornerstone from the original church had been salvaged from the fire and capped with a new stone reading "Rebuilt in 1941."

We have gone from wooden shed, to kitchens, to railroad depot, to chapel, to frame church, to brick church . . . We have had our name changed from Stony Road Mission, to West Paterson Methodist Episcopal, to Westside, to Westside United Methodist . . . We have seen generations come and go . . . We have seen good times and bad . . . But the determination of this congregation to worship the Lord and do His good works has and will continue to remain unchanged.

Mr. Speaker, I appreciate the opportunity to present a portion of the history of this distinguished church that has remained dedicated to helping others and guiding them spiritually. As Westside United Methodist Church of Paterson, NJ, celebrates its 100th anniversary, I know that you and all of our colleagues here in Congress will want to join me in extending our warmest greetings and felicitations for both the service and guidance it has provided for its community, State, and Nation.

TRIBUTE TO THE VOCATIONAL INDUSTRIAL CLUBS OF AMERICA ON THEIR 25TH ANNIVERSARY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. RITTER. Mr. Speaker, it is my great honor and privilege to salute the Vocational Industrial Clubs of America on the occasion of its 25th anniversary.

Since its founding on May 8, 1965, in Nashville, TN, VICA has been—and continues to be—a vitally important leader in delivering and improving vocational-technical education in our public secondary and postsecondary institutions.

VICA has provided what our Nation now so eagerly seeks: a labor force imbued with pride in work, and a personal commitment to leadership, citizenship, academic excellence, and quality skill training. Nearly 4 million students have improved their futures through VICA programs. They have enhanced their job and leadership skills to become productive and valued employees and business owners. Many have pursued further education in the course of developing their careers.

VICA's exemplary programs continue to serve their principal partners: employers, teachers, and nearly 250,000 students in 12,500 programs every year. In serving them, VICA serves the Nation as well. I have seen this in my own district where VICA is a major force in our own Quality Valley, USA Program, the Lehigh Valley's community of excellence. In fact, the Lehigh Valley of Pennsylvania is well represented on VICA's board by my good friend and constituent, Elmer Gates, chief executive officer of Fuller Co. in Bethlehem. In addition to serving as a VICA Industry Councils Chairman, Elmer is the chairman of Quality Valley, USA.

VICA's active partnership with over 250 national corporations, trade associations, and labor organizations have contributed to the furtherance of vocational-technical education. VICA's leadership has also built similar partnerships at the state and local levels.

VICA's members have built and improved their communities through their club activities, using both their vocational and leadership skills.

As the President stated in his proclamation for Vocational-Technical Education Week earlier this year:

If the United States is to remain a leader in the increasingly competitive global market place, it must not only be committed to excellence in the production of goods and services, but also be capable of achieving it. By preparing young men and women for work in highly specialized technical fields, vocational-technical education programs make an important contribution to our Nation's strength and productivity.

VICA's 25th anniversary year theme is "Quality at Work," acknowledging the many opportunities that vocational education provides for fulfilling work that serves the growing needs of our population for professional, and skill services. VICA has been putting the President's words into practice for the last quarter century.

Mr. Speaker, I hope my colleagues—and communities across America—will join me in voicing appreciation for VICA. Furthermore, I encourage all educators, students, and citizens at large to support and partake of the vocational education program offered by VICA and to duly note and acknowledge the value this organization contributes to our economic well-being and the well-being of our citizens.

A TRIBUTE TO ERIC FRANKLIN

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. GEKAS. Mr. Speaker, I ask my colleagues to join me in recognizing an exceptional young man from my congressional district in Pennsylvania.

Eric Franklin Bush of Muncy will be awarded the rank of Eagle Scout on May 31, 1990. As a member of Boy Scout Troop 21 in Montoursville, Eric has distinguished himself as a leader and a productive member of his community. His 25 merit badges are evidence of his versatility and industry, and his Eagle Scout project, to restore several bus sheds, benefited local schools and improved the appearance of this township.

Eric's accomplishments extend beyond Scouting. A class officer, he maintains honor roll status at Muncy High School. He works part time, and is involved in several other activities.

Mr. Speaker, Scouting is an honorable enterprise, one which Eric has pursued for 10 years with enthusiasm, dedication, and dignity. We congratulate him on his impressive achievements.

FRANK PRINCIPE—THE "PRINCE" OF MASPETH

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. MANTON. Mr. Speaker, on May 28, 1990, the community of Maspeth, NY will hold its annual Memorial Day Parade. This year, Frank Principe will serve as the Grand Marshal of the Maspeth Memorial Day Parade. Maspeth is located in the Ninth Congressional District, which I have the privilege to represent.

Mr. Speaker, Frank Principe is a remarkable engineer and an outstanding public servant. West Maspeth's thriving industrial district is largely the work of Frank Principe. At the beginning of World War II, Frank undertook a major development project, constructing 44 buildings in Queens.

Today, at age 81, Frank remains active in his community. As chairman of the West Maspeth Local Development Corp., a nonprofit organization he founded in 1982, Frank works to create new jobs for the unemployed, expand business opportunities, and improve the transportation system in the area. Frank also is a leader in the effort to alleviate the problem of homelessness.

Mr. Speaker, I can think of no one more deserving to serve as chairman of the Maspeth Memorial Day Parade than Frank Principe. I urge my colleagues to read the following article on Frank Principe, which appeared in the Queens Ledger.

[From the Queens Ledger, Apr. 19, 1990]

THE "PRINCE" OF MASPETH, FRANK PRINCIPE TO BE GRAND MARSHAL

(By Brian Winzeworth)

The cluttered desk nestled inside the Spartan trailer in West Maspeth, like the man who has laid claim to it for the past eight years, greets visitors with a sense of dynamics, of many tasks underway at once. A stack of well-used brown envelopes labeled "City Charter" and "The Homeless" occupy its worn surface.

Nearby lie a pile of telephone messages from area residents seeking assistance in bringing lawsuits against the city for failure to repair a sagging street which has caused water mains to leak and rupture.

Above the desk, which remains perpetually pigeon-toed in-between a copy machine and a long narrow table, a diploma from Cornell University proclaims "Francis Joseph Principe, Chief Engineer" for all to see.

For the 81-year-old resident of Maspeth, this "no frills" office is appropriate. His desk is the desk of a chief engineer, one whose busy career began before the first warehouse in West Maspeth's industrial district even began being built.

Today, the chief engineer no longer undertakes massive construction projects like the 44 buildings he erected in Queens at the onset of World War II.

Instead, Principe, who has been chosen as the grand marshal of this year's Memorial Day parade in Maspeth, busies himself with developing new jobs for the unemployed and improving the local "quality of life."

"The idea is to give local jobs to local people," he said one recent afternoon inside the trailer headquarters for the West Maspeth Local Development Corporation, a not-for-profit organization he created in 1982.

Appropriately, the shiny trailer sits in the front yard of David and Warshol Plumbing on 49th Street, overlooking much of the area Principe helped to mold more than a half-century ago. There, Principe spoke about his beloved Maspeth and, in doing so, revealed some of the personal qualities which have earned him the status as the grand marshal of this year's parade.

Parades have always played an important role for the Principes ever since the family immigrated from Italy to the East New York section of Brooklyn at the turn of the century. His father, Louis, was a brick layer by profession but a grand marshal at heart.

Louis belonged to an Italian Society, a membership which was a source of great joy to both father and, later, son who at the impressionable age of nine enjoyed the opportunity of seeing his dad elected as grand marshal.

"It was a big parade and he was the grand marshal," Principe recalled with a hint of elation in his voice. "I remember my father marching. Now it's happening to me. It's very exciting!"

Indeed, the ensuing years would prove to be very tantalizing for the young Frank Principe. Brooklyn was a place of rapid change during the 1920s and 1930s as the Depression came and went, leaving in its aftermath a housing boom.

The elder Principe, through his association with the Masons, became involved with various business ventures in the borough, particularly major industrial developments like the Bush Terminal near the Brooklyn Navy Yards. Meanwhile, the junior Principe was learning the basic skills for his success in later life at Manuel Training High School, a hands-on vocational institution.

Upon his graduation from Cornell University in 1931, Principe found himself in a unique situation: He possessed an extraordinary vocational background, yet had no actual work background!

His father soon offered him a piece of advice that he never forgot. "You need work? Go to work!"

By that time, Louis Principe had become a builder of citywide reputation, and was involved with a new housing development on 65th Place known as the Ridgewood Gables. It was also at that time many banks failed, casting a shadow on the city's economy which postponed the building of many new homes and slowed the completion of those already in progress.

The Democrats in New York were advocating the so-called "California" homes—sturdy houses for a "cheap" $4,990—for the middle working class in the Maspeth area during the decade before World War II, Principe recalled. In the interim, he had finished the Gables which his father had

begun and having moved into the six-story apartment complex, became the president of the Ridgewood Plateau Civic Association and built nearby Maurice Park.

After a flurry of negotiations, culminating with a stamp of approval on the hood of a Cadillac (driven all the way from Washington, D.C. for the occasion), Principe managed to obtain the first HFA (Home Financial Assistance) loan in the United States.

The war began and with it a need for fighting men and machine—and builders like Principe.

The area of land known today as West Maspeth didn't exist prior to 1944: in its place was a huge swamp of about 100 square acres. The Maspeth Creek, named after indigenous Indians, ran eastward along where Principe's trailer stands.

As the chief engineer for the project, his task was a simple but arduous one: fill in the creek and adjacent land and build an array of warehouses in a hurry to help the nation's war effort.

"Frank, don't knock yourself out! The war won't last forever!" a superior told Principe when the chief engineer said he wanted to erect structures that would remain standing for many decades. Contrary to his instructions, Principe build them the only way he knew how—the right way.

After the war, the factories which weren't suppose to last fell silent but remained standing, eventually being sold to private industry for other purposes.

In those days, the American Legion began to observe an annual ceremony to the nation's fallen war heroes, with post 783 hosting a memorial day parade through Maspeth.

In September, 1984, Queens Borough President Claire Schulman declared a Frank Principe Day. He was honored along with wife Virgina, their children, son Lee James and daughter Virgina, and four grandchildren, at the Mariott Hotel.

"The past 60 years in local history have been very exciting," said Principe who, in addition to running the development corporation, has become a member of Community Board 5.

Frank Principe, community activist and expert builder, will be at the head of Maspeth's parade come May 28th. It's his parade—and in many ways, his town.

REDUCED SPENDING RATHER THAN INCREASED TAXES

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. GINGRICH. Mr. Speaker, the lead editorial in the May 16, 1990, Atlanta Constitution makes the case for reduced spending rather than increased taxes in addressing the problem of the deficit.

Let me just highlight one paragraph:

Truth is, there are literally thousands of ways to cut the federal budget without imposing real harm. It's no mystery. Various political think tanks, such as the Heritage Foundation, have offered examples of unwarranted federal spending for the past decade.

Mr. Speaker, I believe the majority of American people share this same sentiment.

This message is one which I will carry with me to the budget summit talks.

The article follows:

[From the Atlanta Constitution, May 16, 1990]

PRESIDENT SHOULD HAVE SAID: "READ MY LIPS: NO BUDGET CUTS"

In hindsight, we very much regret that President George Bush didn't travel the country vowing: "Read my lips, no budget cuts."

Had he done so, the natural alliance of journalists and politicians inside the Washington Beltway might well have mobilized the country to demand a reduction in federal spending.

Instead, the president promised no new taxes, thereby launching the Washington establishment on its favorite pastime: Demonstrating to the rest of the country that they know more about these matters than the president.

Reams of copy have flowed from inside the Beltway offering eloquent accounts of the impossibility of avoiding higher taxes. The president may not understand politics and the budget, but the Washington media and politicians—whose policies have failed to win the nation's endorsement in five of the last six national elections—certainly did.

The administration and congressional leaders now are gathered in a budget summit with "no preconditions," which Beltway insiders see as the ultimate acceptance of their compelling arguments in support of higher taxes.

We don't have a good feeling about this summit.

Democrats have demonstrated already that they are hopeless captives of a tax-and-spend ideology, proposing as they do to use a non-existent "peace dividend" of money-to-be-borrowed to create new social spending programs.

Mr. Bush, too, has shown a disturbing tendency to propose and compromise, to divide the difference on spending. The result, of course, is that nothing fundamentally changes, except the tax rates.

Truth is, there are literally thousands of ways to cut the federal budget without imposing real harm. It's no mystery. Various political think tanks, such as the Heritage Foundation, have offered examples of unwarranted federal spending for the past decade.

All of them, of course, are protected by some special interest, whether farmers, veterans, the elderly, mayors and governors, or the medical profession. The problem has been that Congress and the administration lacked the resolve to face down special interests.

Having been driven to a budget summit, we hope now that actual cuts in indefensible programs are as much a part of the discussion as higher taxes.

Higher taxes, regardless of Mr. Bush's weakening resolve, are not the solution. The solution was and remains spending reductions and the elimination of programs that have outlived their purpose.

We trust that's the message Sen. Wyche Fowler and Rep. Newt Gingrich are taking to the negotiating table.

NATIONAL MARITIME DAY—MAY 22, 1990

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. JONES of North Carolina. Mr. Speaker, today, Tuesday, May 22, 1990, is National Maritime Day. This is the day set aside every year to honor the thousands of men and women who have devoted their lives to the American-flag merchant marine. It is also an occasion to remember the thousands of American merchant mariners who lost their lives confronting the natural forces of the wind, weather, and the sea. We also remember and salute those mariners who perished at the hands of the enemies of the United States.

The United States is one of a handful of representative governments which thrive on peace. There is a longing in the American spirit for peace. Individual Americans realize that this is an imperfect world. Armed force is sometimes necessary to ensure the continuation of the Republic, but Americans would rather devote their time and effort to their families, their careers, and the betterment of their communities.

It is a paradox of American history that peace is usually associated with hard times for our shipbuilders and ship operators, as well as for the men and women who crew our merchant vessels. When a national emergency is declared, we look to our ships to deliver the cargoes necessary to support the military. In other periods, this Nation is content to allow unseen and unguided market conditions to undercut the American merchant marine. We must remember that our ultimate security is dependent upon our ability to build, operate, and crew merchant vessels. That is why National Maritime Day is so important.

As chairman of the Committee on Merchant Marine and Fisheries, I ask all who enjoy the fruits of peace and victory to remember the cost at which they were purchased. We are all grateful to those who perished on the *Murmansk Run,* to those who were incinerated delivering petroleum to our allies, to the hundreds of merchant mariners taken prisoner of war. We remember too the men and women who worked in our shipyards day and night to build the tankers and cargo ships which carried the United States to victory. All that sacrifice and all that work must not be forgotten.

And so I ask all Americans to celebrate the true meaning of National Maritime Day, 1990, and remember those who cannot be with us today. This peaceful celebration is possible because the men and women of the American merchant marine answered the call to act in the national interest.

A TRIBUTE TO JOHN A. NEDJEDLY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. MILLER of California. Mr. Speaker, for the past 40 years Californians have known the dedication of John A. Nedjedly, a former State senator from Contra Costa County. I would like to take a few moments to highlight the illustrious public career and community service work of Senator Nedjedly.

Prior to his legislative career, John served Contra Costa County in many capacities. These positions ranged from deputy district attorney, city attorney for Walnut Creek, Contra Costa County Counsel, and finally three terms as Contra Costa County district attorney. His ability to assess the needs of the community led him to write the "Little Master Plan", which made it possible for the city of Walnut Creek to develop its central business district.

In 1969, by a special election, John was elected to represent the Seventh State Senatorial District. During his time in office, John wrote bills dealing with law enforcement and administration of justice, local governments, public health and consumer protection. His strongest interest, however, was in environmental protection. John was the author of numerous major pieces of legislation providing for the most effective management of California's natural resources, including the State's most comprehensive solid waste management program. For his leadership and efforts in this area, Senator Nedjedly received the American Motors Award of 1966 as one of the "Ten Outstanding Americans in the Field of Conservation".

Today, John still has an interest in community issues, and is very active in county affairs. He is founder and president of the Contra Costa Youth Association, chairman of the County Board of Supervisors Committee on Pre-Trial Release and Criminal Justice, Contra Costa County Council, director of the Council of Community Services, Park and Recreation Council, County Health Association and Children's Vision Center of the East Bay, just to name a few. Senator Nedjedly, as a Scoutmaster, is actively involved with the Boy Scouts of America, particularly with the Boy Scouts of Contra Costa County. John is an Eagle Scout as well.

On Thursday, May 24, 1990, the Easter Seal Society of Contra Costa, Solano, and Napa Counties will honor John Nedjedly. The Easter Seal Society has established Camp Nejedly-Hawley Lake, an Easter Seal camp for disabled children, a project close to John's heart.

Mr. Speaker, I would like to take this opportunity to commend Senator Nedjedly for his sincere interest and continued involvement in community affairs. These efforts have certainly earned him the respect and appreciation of the members of the community. I also thank Senator Nedjedly for 40 years of dedicated service to California and to Contra Costa County.

THE CASE OF POET JACK MAPANJE

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. LEWIS of Georgia. Mr. Speaker, I wish to call to the attention of my colleagues the situation of one of Africa's greatest poets, Jack Mapanje. Mr. Mapanje is a Malawian writer and theoretical linguist who has been in prison since September 1987. His crime was to write poetry which too vividly depicted the reality of his country. Malawi suffers under the 25-year long dictatorship of Life President Kamuzu Banda.

The Congressional Committee to Support Writers and Journalists was created to support and defend people, like Jack Mapanje, who are in jail solely because of their written words. I serve as a member of the steering committee of the Congressional Committee to Support Writers and Journalists, along with my colleagues, Congressman BILL GREEN, Senator BOB GRAHAM, and Senator MARK HATFIELD. The bipartisan group includes 74 Members of the House of Representatives and 15 Senators. We have written letters on 175 cases in over 40 countries. Among the cases we have taken up is Jack Mapanje. We have repeatedly urged his unconditional release.

A description of Jack Mapanje, provided by the human rights organization Africa Watch, as well as one of his poems follows:

On September 25, 1987, Malawian police arrested Jack Mapanje, the country's best-known poet. Since then, the internationally regarded writer and theoretical linguist has remained imprisoned in Mikuyu Prison, in southern Malawi, without charge or trial. Despite widespread international protest, the Malawian government has given no reason for Mapanje's detention.

Unfortunately, in a country as fiercely repressive as Malawi, the real reason for Mapanje's detention seems painfully clear: until his arrest, Mapanje had skillfully avoided Malawi's Censorship Board and used his poetry to criticize the 25 year rule of Life-President H. Kamuzu Banda. Even after prohibiting the sale of Mapanje's volume of poetry, "Of Chameleons and Gods," it appears that Banda's government could not tolerate the popularity of Mapanje's metaphorical, personal and political verse.

Malawi's Censorship Board has become universally notorious for its liberal use of the red pencil—literature banned in the country ranges from Marx and Engels, to Ernest Hemingway, James Baldwin, Graham Greene and George Orwell. In such difficult circumstances, it was quite an accomplishment that Jack Mapanje avoided censorship and imprisonment for as long as he did.

Mapanje, of course, was acutely aware of the political pressures facing a poet in Malawi. His first volume of poetry, "Of Chemeleons and Gods," was not cleared for sale in Malawi, but was also not banned, leaving the collection in a curious vacuum—individuals could not be prosecuted for possessing the volume, but bookstores could not sell it. This move was made, Mapanje felt, because banning the book outright "would make me a hero, and they didn't want one of those." Indeed, Mapanje was amused at the thought that attempting to avoid the attention of the Censorship Board may actually have improved his poetry, by forcing him to employ metaphors which broadened the scope of his writing.

On a different level, Mapanje was fearful of a society in which censors decide the content of national culture. In a speech in 1986 at the Second African Writers' Conference, Mapanje said: "In certain parts of independent Africa . . . censorship is deliberately established to discourage the development of authentic culture." He believed, however, that "African writers, artists and scholars must be the custodians of African culture; not the censors and politicans they represent."

Jack Mapanje's self-declared war against censorship reached a critical state in 1987. Earlier, in 1986, he had delivered a speech at a conference in Stockholm entitled "Censoring the African Poem: Personal Reflections", in which he described his ongoing conflicts with the Malawi Censorship Board. By 1987, Mapanje had planned to release a second volume of poetry, provisionally entitled "Out of Bounds." It appears, though, that the Malawian authorities were fearful of the criticism that this volume might contain, and also worried about an invitation extended to Mapanje to become a writer-in-residence at the University of Zimbabwe. It was presumbly felt that from the safety of Harare, Mapanje would feel less constrained about openly criticizing the Malawian government.

At the time of Jack Mapanje's arrest, in September 1987, Malawian authorities took him in handcuffs to the University of Malawi, where he headed the Department of English, searched his office and seized various manuscripts. Mapanje's volume of poetry "Of Chameleons and Gods," was also banned.

Jack Mapanje is presently being held at Mikuyu Prison. For the first 20 months of his incarceration, he was not allowed visits from his family or friends, and was not allowed to see a priest—Mapanje is a practicing Roman Catholic. It is believed that international protest over his incarceration may have helped improve these conditions, but Malawian authorities have maintained a steadfast silence on his detention.

The destructive effects of censorship on Malawi, however, continue unabated, damaging not only artists and citizens but also the political leadership of the country itself. For, as Mapanje stated: "censorship ultimately protects African leadership against truth."

Reprinted below is one of Mapanje's poems from his volume "Of Chameleons and Gods." The poem, which several of Mapanje's acquaintances had told him was "too dangerous", describes the situation facing a government minister who has lost his job and has to return to his home village. The ex-minister, in his arrogance, assumed that he would never have to leave the capital and had not tried to improve his village.

MAKING OUR CLOWNS MARTYRS (OR RETURNING HOME WITHOUT CHAUFFEURS)

We all know why you have come back home with no
National colours flanking your black mercedes benz.
The radio said the toilets in the banquet halls of
Your dream have grown green creepers and cockroaches
Which won't flush, and the orders you once shouted

To the concubines so mute have now locked you in.
Hard luck my friend. But we all know what currents
Have stroked your temper. You come from a breed of
Toxic frogs croaking beside the smoking marshes of
River Shire, and the first words you breathed were
Snapped by the lethal mosquitoes of this morass.
We knew you would wade your way through the arena
Though we wondered how you had got chosen for the benz.
You should have been born up the hills, brother where
Lake waters swirl and tempers deepen with each season
Of the rains. There you'd see how the leopards of
Dedza hills comb the land or hedge before their assault.
But welcome back to the broken reed-fences, brother;
Welcome home to the poached reed-huts you left behind;
Welcome to these stunted pit-latrines where only
The pungent whiff of buzzing flies gives way.
You will find your idle ducks still shuffle and fart
In large amounts. The black dog you left still sniffs
Distant recognition, lying, licking its leg-wounds. And
Should the relatives greet you with nervous curiosity
In the manner of masks carved in somebody's image,
There is always across the dusty road, your mad auntie.
She alone still thinks this new world is going shit.
She alone still cracks about why where whys are crimes.

INTRODUCTION OF RESOLUTION URGING UNITED STATES RATIFICATION OF SOUTH PACIFIC ENVIRONMENTAL CONVENTION

HON. ROBERT J. LAGOMARSINO
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. LAGOMARSINO. Mr. Speaker, I am introducing a resolution today entitled, "Urging United States Ratification of the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region." The convention has two protocols dealing with the ocean dumping of wastes and pollution emergencies. The protocols should help to prevent or avert the damaging consequences of the ecological tragedies of oilspills and hazardous waste pollution in the South Pacific.

The United States has an opportunity to demonstrate international leadership in preserving and protecting one of the Earth's greatest resources, the oceans; and specifically the South Pacific Ocean region, by bringing the convention and related protocols into force through U.S. ratification. Not only should the United States be one of the countries which brings the convention into force, but the practical mechanisms provided for by the convention are needed to protect the marine ecosystem.

The United States signed the convention and related protocols in 1986 with 13 other countries. The administration has yet to submit the convention and protocols to the Senate for advice and consent to ratification—10 ratification or accessions are required to bring the convention into force; 8 signatory states have deposited notices of ratification or accession: Republic of the Marshall Islands, May 1987; Cook Island, September 1987; Federated States of Micronesia, June 1988; Australia, July 1989; Solomon Islands, August 1989; Papau-New Guinea, September 1989; Fiji, September 1989; and New Zealand, May 3, 1990.

The resolution calls for the President to submit the convention and—as necessary—the related protocols to the Senate for its advice and consent to ratification. The administration has expressed full support for the convention and protocols and is expected to submit them in the near future.

The resolution also urges the Senate to consider the convention and protocols without delay once submitted, in order to permit full participation and cooperation of the United States in the South Pacific Regional Environment Program, including the SPREP Work Program. The resolution states that the United States should commit a fair share of the resources necessary to support the work program and those activities necessary to implement the provisions of the convention and its protocols. The administration has provided an equitable U.S. contributions of $90,000 to SPREP in 1990.

The SPREP was adopted in 1982 by governments of the South Pacific region at the Rarotonga Conference on the Human Environment in the South Pacific. SPREP was formed under the auspices of a number of different South Pacific regional organizations and components of the United Nations: the South Pacific Commission, the South Pacific Bureau for Economic Cooperation, the United Nations Environment Program, and the U.N. Economic and Social Commission for Asia and the South Pacific.

The combined efforts of these regional and international organizations was considered necessary to help the many small and distant island countries to effectively address potential ecological threats of an increasingly industrialized world. The two principal aspects of SPREP are the convention and the Work Program.

The SPREP Work Program concentrates on the major environmental problems confronting the Pacific island countries: marine pollution, pesticide control, natural resources management, environmental education, climate change and sea level rise. While some continental countries share in these same concerns, the fragile, distant, and often small low elevation island countries are particulary vulnerable.

I want to acknowledge the support of my colleagues who have joined me in sponsoring this resolution, including the chairman of the Foreign Affairs Subcommittee on Asian and Pacific Affairs, my good friend from New York, STEVE SOLARZ. Chairman SOLARZ recently issued a report of the congressional delegation to the South Pacific which he led, "Problems in Paradise: United States Interests in the South Pacific." One of the report's recommendations for U.S. policy in the region is to "ratify SPREP Convention and associated protocols." The recommendation was one of several which will enhance U.S. relations in the Pacific.

I also want to thank PAT SAIKI, BEN BLAZ, and ENI FALEOMAVAEGA for joining this effort to urge the administration and the Senate to take prompt action to bring into force the convention and protocols to protect the fragile and invaluable marine resources and ecosystems of the Pacific.

The following is the resolution in full:

RESOLUTION

Whereas the Earth's fragile ecological system requires the attentive stewardship of Man;

Whereas water covers three-fourths of the Earth's surface, with the Pacific Ocean containing over half of the total volume;

Whereas the Earth's marine ecosystems are increasingly threatened due to expanding populations and industry and their accompanying residues and wastes;

Whereas Pacific governments adopted a South Pacific Regional Environment Program (hereinafter in the preamble of this resolution referred to as "SPREP") in 1982 at the Rorotonga Conference on the Human Environment, which was formed under the auspices of the United Nations Environment Program, the United Nations Economic and Social Commission for Asia and the South Pacific, the South Pacific Bureau for Economic Cooperation, and the South Pacific Commission;

Whereas SPREP has two aspects, the Work Program and the Convention, to address Pacific Ocean environmental concerns;

Whereas the United States is supporting the SPREP Work Program budget directed toward marine pollution, pesticide control, natural resources management, environmental education, climate change, and sea level rise;

Whereas the SPREP Convention for the Protection of the Natural Resources and Environment of the South Pacific Region was opened for signature in Noumea, New Caledonia on November 24, 1986, 14 countries having signed the Convention;

Whereas the Convention has two protocols on ocean dumping and spills;

Whereas the first protocol, the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, regulates the deliberate disposal of wastes at sea in the Convention Area, taking into account that under Article X of the convention the parties agree not to dump radioactive wastes or other radioactive matter;

Whereas the second protocol, the Protocol Concerning Cooperation in Combating Pollution Emergencies in the South Pacific Region, provides a regime for preventing and combating pollution incidents through the mutual sharing of information, preparation of contingency plans, and strengthening of response capabilities; and

Whereas the Convention will enter into force with the ratification, acceptance, approval, or accession of 10 of the signatory countries, and 8 signatures have already ratified or acceded to the Convention: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the President should submit the Convention for the Protection of the Natural Resources and Environment of South Pacific Region, and (as necessary) the related protocols, to the Senate for its advice and consent to ratification;

(2) upon the submission of such Convention and protocols to the Senate, the Senate should without delay consider and give its advice and consent to ratification in order to permit full participation and cooperation of the United States in the South Pacific Regional Environment Program effort to protect and manage the marine and coastal environment, to combat pollution emergencies, and to prevent dumping; and

(3) the United States should commit a fair share of the resources necessary to support—

(A) the Work Program of the South Pacific Regional Environment Program, and

(B) those activities necessary to implement the provisions of the Convention and its protocols.

THE 75TH ANNIVERSARY OF THE ARMENIAN MASSACRES

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. BURTON of Indiana. Mr. Speaker, on April 20, President Bush issued a statement which recognized "the terrible massacres suffered in 1915–1923 at the hands of the rulers of the Ottoman Empire." The President added, "On this seventy-fifth anniversary of the massacres, I wish to join with Armenians and all peoples in observing April 24, 1990 as a day of remembrance for the more than a million Armenian people who were victims."

While this statement correctly avoided the term genocide, it regrettably makes the same mistake as Senate Joint Resolution 212 (S.J. Res. 212), a resolution sponsored by Senator Robert Dole and debated on the Senate floor earlier this year. Like Senate Joint Resolution 212, a resolution which designates April 24 as a national day of remembrance for the "Armenian genocide of 1915–1923," President Bush's recent statement presents only one side of the Armenian equation.

Therefore, I would like to share with President Bush and my colleagues the historical facts which took place in the Ottoman Empire during that time. There is no doubt that thousands of Armenian civilians died as a result of the terrible conditions and actions of the time. Famine, epidemics and intercommunal fighting, combined with a poorly executed forced relocation policy for the Armenian population, all contributed to a tragic loss of life for Christians and Moslems.

However, it is morally wrong to recognize the suffering of Armenians without acknowledging that it was the result of a civil war initiated by Armenian revolutionaries in collaboration with invading Czarist Russian armies. The goal of these revolutionaries was to impose an exclusively Armenian state in an area of the Ottoman Empire where Armenians were a minority. The civil war took its toll on both sides. Yet, few recognize the 2 million Turks that perished during this conflict, many at Armenian hands. These losses are no less significant than those of the Armenians.

It's time to leave to historians the task of assembling the historical facts and determining what really occurred during this turbulent period of time. President Bush's statement endorses a specific historical version of tragic events about which there remains considerable controversy among historians and scholars. Most importantly, it demonstrates a lack of sensitivity for one of our most loyal allies.

I regret the suffering and tragedy experienced by Armenians. However, it's a great mistake to stoke the fires of ancient grievances. Public statements and congressional legislation will not solve the Armenian issue. After 70 years, it is time to look to the future and not dwell on the past.

EDGAR FLEETHAM

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. WOLPE. Mr. Speaker, I rise today to pay tribute to the longest serving public servant in my congressional district in southwestern Michigan, Mr. Edgar Fleetham, on the occasion of his retirement from elected office.

Ed has been an elected official since 1936, when he won the Sunfield Township treasurer's seat at age 21. Subsequently, in recognition of his remarkable responsiveness and dedication to serving his constituents, he was elected to a variety of other positions—township board member, township supervisor, Sunfield High School Board of Education member, and Eaton County commissioner. It is from his district county commission seat that he is now retiring.

However, this amazing list of public offices only touches the surface of Edgar Fleetham's involvement in public matters. During the last half-century he has also served on the boards of a number of organizations, including the Tri-County Mental Health Board, the Michigan Association of Public Health Boards, the Michigan Association of Counties, and the Michigan Association of Local Public Health.

In addition to his public service commitments, Mr. Fleetham has served as the lay leader of the Sunfield United Methodist Church for 46 years. He is also a loving husband, father, grandfather, and great-grandfather.

Mr. Speaker, it is obvious that Michigan and Eaton County will lose a great public servant when Edgar Fleetham retires this year. His commitment to public service and his responsiveness to his constituents have been his trademarks these many years—and these characteristics have been repaid with the affection and respect his constituents hold for him. We are all in his debt, and I know that my colleagues will want to join with me in wishing Edgar Fleetham all of the best of the occasion of his retirement from public office.

IN RECOGNITION OF BAY HAVEN ELEMENTARY SCHOOL

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. GOSS. Mr. Speaker, in today's competitive world, the United States faces a tremendous challenge in preparing our children to lead this Nation into the next century.

In meeting that challenge, we depend upon our communities and the creative dedication of teachers and school administrators, whose work often goes unrecognized and unrewarded. In an era of troubling statistics about our national education system, individual success stories deserve our attention and should become the focus of our efforts to effect positive change.

Mr. Speaker, today I rise to recognize one success story—the Bay Haven School for Basics Plus, located in Sarasota, FL. This elementary school has just recently been honored by the Federal Department of Education under the 1989–90 Blue Ribbon Schools Program for "unusually effective" achievement and excellence.

One of 497 schools in the country nominated for this recognition, Bay Haven is 1 of only 221 schools to receive the award, whose purpose is to "identify and call attention to unusually successful public and private elementary schools and, through publicity and other means, to encourage their emulation by other educators."

Those of us in southeast Florida are very familiar with the tremendous contribution the Bay Haven School for Basics Plus makes in getting our youngest students off to a strong start. This type of national recognition is not only well-deserved, but will also help to spread the word about the good work the teachers, administrators, families, and students at Bay Haven are doing every day.

Under the leadership of its dynamic principal, Marilyn Highland, Bay Haven boasts several innovative programs, including a new concept where fourth-grade students visit a nearby University of South Florida campus for a brief introduction to college life. School officials hope such early exposure to higher education will help encourage children to stay in school.

Perhaps one of the school's most unique characteristics is its emphasis on family involvement. In fact, parents are asked to sign a contract with the school underscoring their commitment to play an active role in their children's education.

As a guest at a recent Bay Haven Spirit Day rally, I was impressed with both the enthusiasm and the discipline of the students and the dedication of the staff. Certainly winning the National Blue Ribbon Schools Program Award is a well-deserved honor for Bay Haven, but the real reward for the school's efforts lies in the unmistakeable fact that its programs are working.

DEFEAT OF THE PATRIOT ENERGY COAL PLANT

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. ATKINS. Mr. Speaker, I rise to pay tribute to local officials and concerned citizens in the town of Ayer, MA who banded together to defeat the proposed siting of a 240-megawatt coal burning plant in their town. Unfortunately, I can't be with them to celebrate at tonight's board of selectmen meeting. However, I share their celebratory mood and I will be with them in spirit.

Last week, the Massachusetts Energy Facilities Siting Council [EFSC] hammered the final nail in the coffin of the Patriot Energy proposal by denying Patriot an extension for proceeding with its siting application. While lawyers representing Patriot have indicated that it would be possible for the company to reapply for a siting license, I can assure the town that the proposal is dead. Thanks to the town's success in pointing out the clear and present dangers the facility would have posed to the local environment, the project has absolutely no chance of being approved by either the EFSC or the Massachusetts Department of Environmental Protection. As a result, any subsequent application by Patriot Energy would simply be an exercise in futility.

I believe that the manner in which the town approached this situation will serve as a model for officials in other towns to follow. Rather than simply saying not in my backyard, town officials devoted a great deal of time and effort to establishing strong ties to the citizens groups who opposed the project. Together, they carefully researched the proposed coal-burning technology, collected and disseminated information on the steps needed to protect their aquifer, and calmly and rationally exposed the inadequacies contained in the draft environmental impact report.

I was honored to work with them in this fight against environmental disaster. While I deal with policy issues relating to clean air and clean water on a daily basis as a result of my seat on the subcommittee that funds the Environmental Protection Agency, I still relish the opportunity to step in at the grassroots level and join my fellow citizens in a fight against something that clearly threatens our environment. I hope that we can build upon this experience not only to stop future threats to our community, but also to work together to provide the environmental quality and economic growth that we all seek for the town of Ayer.

AMELIA—A BIT OF PARADISE IN MY DISTRICT

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. BENNETT. Mr. Speaker, I have in the district I represent a "bit of Paradise." I am proud to say that Amelia Island Plantation, Amelia Island, FL, in my congressional district, has emerged as the Family Resort of the Year (1989) from a Family Circle magazine tally of nearly 6,000 respondents. As well, Amelia Island Plantation, Amelia Island, FL has been designated by the television program, "Lifestyles of the Rich & Famous," as being one of the "World's 10 Most Beautiful Beaches."

"Amelia Island Plantation is a four-star golf and beach resort on Florida's northernmost barrier island spread out over 1,250 woodsy acres," states Family Circle, and further quoting comments of the voters: "Still has the lush, green, woody feel. Unspoiled.—A.B.W., McComb, Miss." "Excellent program for children: Ours didn't want to come home. Made kids feel special with varied activities and caring staff.—I.O., Kennesaw, GA." "We visit every year. The children enjoy the youth program; we enjoy the relaxation.—S.K., Rochester, N.Y." (Family Circle, April 3, 1990.

Mr. Speaker, I take this opportunity to vouch for the beauty of Amelia Island and to submit for the RECORD a copy of an article from the local newspaper, the Fernandina Beach News-Leader. It is my pleasure to represent in Congress such a world renown location.

PLANTATION WINS AWARD

(By Ruby Christian)

Readers of Family Circle magazine agree with Amelia Island Plantation's focus on making provisions for family-style vacations, the publication reported in its April issue.

The resort caters to families yet enables parents to get off by themselves or gather with an adults-only group.

The Plantation won the magazine's beach resorts category after 6,000 readers responded to Family Circle's invitation to vote.

The Plantation and four other resorts emerged as overall national favorites.

Plantation General Manager Jack Healan said he believes the winning combination includes the Amelia Island site's natural beauty, professional staff and outstanding recreation department which caters to family needs. Children are not only given care when parents choose to be away from them, activities are provided to keep the youngsters happy, he pointed out.

The Plantation won the first-ever Premier Property Award in 1989 which was given by the Resort and Commercial Recreation Association.

"Through company support and a dedicated staff, our recreation department has grown in size and capabilities," said Karyl Stewart, director of the recreation department on when the Premier Property Award was announced.

GILLIAN MITCHELL AND JACQUALINE BAIRD: STORY OF SUCCESS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. LEHMAN of Florida. Mr. Speaker, Miami has long been the destination of choice for immigrants from dozens of countries, and these newcomers have contributed greatly to our community. Two who have made a difference are Gillian Mitchell and Jacqualine Baird, British twins who came to Miami and founded a successful swimwear company called Twins 27 years ago.

I have played tennis for years at Miami Shores with these two women. I never could tell them apart on the court, only in their cars, because they had different license plates: "1st Twin" and "2nd Twin."

I knew they were good tennis players, but not until I read a recent article in New Miami magazine did I learn about their business success. I would like to share this article with my colleagues.

GILLIAN MITCHELL AND JACQUALINE BAIRD—IN THE SWIM WITH TWINS

(By Hope Katz)

Roll after roll of the colors of summertime line the walls of the Twins warehouse in Hialeah, stock for the next generation of bikinis. Fire engine red, marigold yellow, cinnamon, tangerine, snow white, hot pink. These are the shades of 1990.

"This year is going to be our biggest ever, because color is what's selling suits," says Gillian Mitchell. "If a girl is walking down the beach wearing cotton candy pink and another is wearing red hot pink, who would you look at?"

Mitchell should know. Twins, the company that she and twin sister Jacqualine Baird founded 27 years ago, will manufacture a quarter million of the slight swimsuits this year. Sales are expected to exceed $4 million. And all from the "extremely brief two-piece," as Webster's puts it, which the twins started making as a lark.

The sisters came to Miami Beach in the early '60s, British show girls who arrived in the last the Gleason-era hey-day—by way of Berlin and Cairo.

"We were performing our song-and-dance act as the Hamilton Twins," says Baird, who designs most of the Twins suits. "We were trotting around the globe, performing in theaters and having a wonderful time."

"It was when we were playing a club in Puerto Rico that we got the idea about making bikinis," says Mitchell, the marketing side of the team. "On the beach, all of the girls were asking us where we'd gotten our bikinis. In Puerto Rico, you could wear a bikini on the beach, but not around the pool. Meanwhile, everyone in Europe was wearing bikinis. The girls on the beach knew this, and they asked us if we'd make them some just like the ones we had. That started us thinking."

A few days later the twins had sewn several suits and put them in the Caribe Hotel dress shop, on consignment. The first order sold out, "and that was our entrance into the world of high fashion," says Baird.

That was in 1963, and the sisters decided to set themselves up in the bikini business in South Florida. With an investment of $10,000 from each of the twins, and an additional $25,000 from partner Barney Boardman, they opened in the rear of a small boutique in Hollywood, supporting themselves mostly from their evening work at nightclubs in the Fontainebleau and Diplomat hotels.

"For the first year we didn't take a salary. We also didn't have time to sew all the suits ourselves. So, we hired several local ladies to do the sewing for us. We would take them the patterns and materials, then pick up the finished product and drop off the new orders. We spent a lot of time in the car," says Baird.

In the mid-1960s, they decided to move the production under one roof. They moved to their current warehouse in Hialeah, hired a staff of seamstresses and started doing business full-time. "The hardest thing was getting fabric. No one wanted to help us because we had no collateral. A few did help, and we have been eternally grateful. Of course, many didn't, and when they came back trying to sell material to us, we didn't forget that," says Mitchell.

Now the sisters develop a line of about 100 suits each year, which is pared down to a "top 20" list. The suits retail for $20 to $55, and are distributed to 1,500 shops in the U.S., Costa Rica, El Salvador, Nicaragua, Venezuela, and most recently, Holland. A large portion of their business also comes from distribution on Royal Caribbean Cruise Line, where their biggest seller is the whole-piece suit embroidered with gold lamé.

Like many twins, Mitchell and Baird often finish each other's sentences and thoughts. With seven children between them, the pair banter and giggle like kids themselves. At 58, they don't show their age. "We love what we do," says Mitchell. "Our employees [95 in all] are like family."

"They were the first to come up with interchangeable tops and bottoms, so that a girl whose bust is not in proportion to her hips could still get a good fitting bikini," says Michael Chitoff, president of the Swimwear Association of South Florida. "They are very contemporary. They keep up with all the looks and are very creative."

The twins say the look for the '90s, especially for juniors, is hotter, attention-getting colors. For the more sophisticated bather, however, the twins say bright neons will be replaced by lavender, coral and violet.

What captures the eye in the 1990s is a far cry from the initial impact their line had in the '60s. "When we first arrived in the U.S., bikinis were new fashion in the States," says Mitchell. "I remember the first time we went to the beach in our suits. We were in Atlantic City, and a policeman came over to us and told us we couldn't be walking around like that. He promptly put us in a cab and told the driver to take us home."

PRAISE FOR LAWRENCE COUNTY HEAD START

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. KOLTER. Mr. Speaker, I rise today before the full U.S. House of Representatives to commend and praise Lawrence County Head Start Inc. of 301 East Long Avenue, New Castle, PA, in my Fourth Congressional District.

Lawrence County Head Start is celebrating its 25th anniversary of servicing deserving children since its inception.

The organization, which has serviced more than 3,000 children and families in the past 25 years, is honoring the occasion with a special anniversary banquet.

Mr. Speaker, I am very proud of the positive and worthwhile impact that Lawrence County Head Start has had on the entire community and that is why I rise before the House and honor Lawrence County Head Start today.

TRIBUTE TO MR. BOB ROGERS

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. DREIER of California. Mr. Speaker, the Congress has recognized that we must place a stronger emphasis on quality education in our schools. In order to do so, it is necessary that we draw attention to those individuals who, through hard work and tireless service, give so much to the educational community.

Mr. Bob Rogers, an administrator at Claremont McKenna College for 33 years, is retiring today after a rewarding career. The Claremont McKenna College Alumni Association has expressed its appreciation to Bob in the form of the following resolution:

RESOLUTION

Whereas Robert G. Rogers is a 1952 graduate of Claremont McKenna College; and

Whereas he returned to Claremont McKenna College on August 1, 1957 as an Admission Officer under the direction of Emery R. Walker, Jr., then Dean of Admission and Financial Aid, serving both the College and the recently founded Harvey Mudd College; and

Whereas he assisted in the admission of the first three classes of Pitzer College, upon that institution's inauguration in 1963; and

Whereas during the first twenty-five years of his tenure at Claremont McKenna College he served successively as Assistant Dean, Associate Dean, and then Senior Associate Dean of Admission and Financial Aid for both Claremont McKenna College and Harvey Mudd; and

Whereas he also served as Chairman of the School and College Relations Committee of the Western Region of the College Board and as a member of the Executive Committee of the same organization during the late 1960's and early 1970's; and

Whereas he founded an Alumni Admission program in 1974 at the College called the Claremont Alumni Schools Program, or "CLASP", which has become an essential part of the activities of this Association; and

Whereas the Claremont McKenna College Alumni Association, recognizing his many contributions to the College, presented him with its Distinguished Service Award on June 6, 1976; and

Whereas he is now retiring, after 33 years of devoted service to Claremont McKenna College; and

Whereas by reason of his remarkable achievements and inspiration, and as a consequence of the affection which this Association holds for him, our fellow alumnus, and in order to convey to him such gratitude and findings: Now therefore, be it

Resolved, That on behalf of all alumni of Claremont McKenna College, the Claremont McKenna College Alumni Association hereby expresses its sincere appreciation and best wishes to Robert G. Rogers, Class of 1952, as he begins his well deserved retirement.

This 22d day of May, 1990.

By William Woods, 1989-90 President.

EQUINE PROGRAM AT THE NORTH WIND UNDERSEA INSTITUTE

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. ENGEL. Mr. Speaker, this week in my district, a group of wild American mustangs are being brought for the first time ever to New York City to become part of a unique program created by the North Wind Undersea Institute. For the past 2 years, the Equine Program at North Wind has been teaching youngsters about the role of the horse in the development of civilization. The program is one way in which North Wind successfully spreads its message of environmental conservation and awareness.

The interaction that will take place between the students and the wild mustangs is an example of the hands-on educational approach of North Wind. Through the Equine Program, inner city children learn about compassion and respect for all animals. They also learn about our responsibility to help preserve and protect our planet and all living things.

I have been working with North Wind since it came into existence over 10 years ago, and I was pleased to help secure a grant from the Department of the Interior for this program. I know that in addition to making learning fun for our young people, North Wind takes its environmental work very seriously. For example, studies of the wild American mustangs as part of North Wind's Equine Heritage Conservancy Program will explore current environmental issues and multiple-use land mangement.

The fine work done by North Wind is a credit to the dedication of its executive director, Michael Sandlofer, and his staff. It is always a pleasure to work with people who care so much about the world in which we live.

WHY DON'T THE SOVIETS CARE ABOUT STEALTH?

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. SABO. Mr. Speaker, as part of its overall plan for defense spending in the 1990's, the Bush administration argues that the United States should build the B-2 Stealth bomber because—among other reasons—the arms control agreement we are currently negotiating encourages its deployment. Under the counting rules in the Strategic Arms Reduction Treaty [START], bombers carrying gravity bombs would count for one warhead, while the warheads carried on air-launched cruise missiles [ALCM's] would be discounted by 50 percent. If, for example, a B-2 bomber were carrying 20 gravity bombs, they would count as one warhead, while 20 ALCM warheads carried by a B-2 would count as 10.

Thus, the Soviet Union has agreed to a treaty that will encourage the United States to deploy the Stealth bomber. Why?

The first possible reason is that the Soviets possess or intend to deploy a large bomber force which will be loaded with large numbers of gravity bombs. However, it appears unlikely the Soviets will expand greatly their bomber fleet. Their newest aircraft, the Blackjack, is equivalent to our B-1B but suffers from substantial problems in crew comfort, weapons system use, and refueling. As a result, production rates have been cut and the Pentagon does not expect the Soviet's future strategic bomber fleet to match ours in size or effectiveness.

Another reason may be the Soviet's existing comparative advantage in Air defense systems. In a large-scale nuclear strike with current arsenals, where air attacks certainly would be preceded by ballistic and tactical missile strikes on the Soviet air defense network, this advantage would be negligible: air defenses would largely cease to exist by the time bombers could arrive to penetrate it.

But in a world dominated by bomber forces, conventional air defenses could play a much larger role in degrading an attack launched through the air. The Soviets maintain such defenses. The United States does not. Which country would benefit most from a treaty that encouraged moving nuclear weapons from missiles, against which there is no defense, to bombers, against which only the Soviets have defenses?

Advocates of the B-2 argue that it will make the Soviet investment in air defense obsolete and, although Soviet defenses could be thickened with additional radars, interceptor aircraft, and electronics to deal with the B-1B, the B-2's special characteristics make it invulnerable to possible system upgrades.

But are the Soviets concerned about Stealth technology? Many analysts claim it can be countered by readily available technology. Just as important, like all bombers a sizable portion of the B-2 force could be destroyed on the ground. Finally, even the Pentagon admits that a major part of the B-2's mission—destroying mobile targets such as missiles—is beyond the reach of current technology.

So there is a third possible reason, that in a fundamental sense the B-2 simply does not matter. Instead, it will play the role of a "rubble bouncer," arriving on the scene only after thousands of nuclear warheads have done the lion's share of the damage. Even under the terms of the proposed START treaty, the United States could retain some 5,000 land- and sea-based missile warheads, more than enough to destroy the political, military, and economic infrastructure of the Soviet Union. The ballistic missile warheads would be backed up by thousands of sea- and air-launched cruise missiles. Seen in this light, the more than 2,000 bombs that could be carried by the B-2 would simply be unnecessary.

In short, the Soviets may have concluded that since the B-2 is irrelevant to the balance between United States and Soviet nuclear forces they have no reason to stop us from wasting tens of billions of dollars on its production and operations.

If so, it would certainly answer this paradox: If, as the Air Force claims, it will be nearly impossible for the Soviets to detect and defeat the B-2 bomber, why don't they seem to care?

Plagued by high costs, criticized as lacking any real mission, and increasingly irrelevant to a changing world, the B-2 may find itself fulfilling only the singular mission of drawing vitally needed dollars from other national security areas and from growing domestic problems. As we review the administration's proposed defense budget for next year, the B-2 should be the first item to go.

A TRIBUTE TO DAVE McLOUGHLIN

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. SHUMWAY. Mr. Speaker, today, I ask that my colleagues join with me in commending and paying tribute to an outstanding public servant as he prepares to retire following a dedicated and distinguished career. Dave McLoughlin will step down from the position of Director, Office of Training at the Federal Emergency Management Agency [FEMA] at the end of this month. His departure will leave very large shoes to fill, and will constitute a loss not only for FEMA, but also for the Nation.

In addition to his doctorate in education, Dave possesses a wealth of knowledge and experience in the field of emergency management, from natural disasters to terrorist attacks. Thus he has made invaluable contributions to FEMA and its mission. He began his Federal service in 1957 as an instructor in the Federal Civil Defense Administration's Chemical, Biological, and Radiological Defense School. By 1971, he had been named Deputy Director of the Defense Civil Preparedness Agency, region IV, in Battle Creek, MI. His next appointment was to the position of planning staff supervisor on terrorism for the Federal Preparedness Agency in Washington. Through his participation in the Presidential reorganization project, Dave contributed his expertise to FEMA's very creation, ensuring that the Agency evolved into an efficient, comprehensive, and expert response team to all national emergencies. There could not have been a more qualified individual to fulfill his many roles there, from his initial appointment in 1979 to the position of Assistant Director of Training and Education to the present day.

Many of my colleagues, especially from California, have special reason to be grateful to Dave, particularly during his service as Deputy Associate Director of FEMA's State and local programs. Time and again, as flood alternated with drought, California has been threatened, and Dave's expertise provided relief. He always identified the extent of our disaster situations promptly, and expedited needed relief. In addition to professionalism, he always demonstrated caring and concern.

Dave's exceptional contributions have been honored at the highest level. He has received both the President's Meritorious Rank Award in 1986, as well as the President's Distinguished Service Award, in 1989. I am confident that his life will continue to be marked with successful contributions, no matter what endeavor he undertakes.

In conclusion, Dave McLoughlin embodies all the qualities demanded of a dedicated public servant. I only wish there were many more like him. He will be badly missed but, more importantly, he will be well remembered. I know that my colleagues will be pleased to join with me in extending hearty congratulations to Dave on a job well done, as well as every best wish to him and to his wife, Carol, for fruitful and rewarding years ahead.

GETTYSBURG HOSPITAL AUXILIARY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. GOODLING. Mr. Speaker, I would like to take a moment today to recognize the Gettysburg Hospital Auxiliary. This year will mark the 70th anniversary of this fine organization and the many contributions the auxiliary has made to the growth of Gettysburg Hospital.

The Gettysburg Hospital Auxiliary boasts more than 1,000 members who have given freely of their time and efforts to raise funds for the Gettysburg Hospital. The successful fund-raising efforts have enabled the hospital to purchase new equipment and establish much desired patient services.

I would like to take this time to thank the members of this fine organization on behalf of myself and the citizens of Adams County and the Commonwealth of Pennsylvania.

TRIBUTE TO THE PERKINS SCHOOL FOR THE BLIND

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. KENNEDY. Mr. Speaker, I am proud to represent an organization from my home district that provides one of the best examples of why we should pass the Americans With Disabilities Act today. The Perkins School for the Blind in Watertown, MA, with some seed money from the Federal Government, has entered into a partnership with major corporations in New England such as Raytheon and New England Telephone to place individuals with handicaps in permanent jobs. The Projects With Industry Program has placed over 220 individuals from all across New England who are visually impaired or blind in jobs such as computer programmers or customer service representatives. These individuals with disabilities would probably be at home on Social Security insurance without this assistance. Perkins School for the Blind, because of its vision and commitment, has opened the door to mainstream society for persons with disabilities. We should learn from this success story and open the doors for thousands more individuals by passing the AWDA today.

CULTURAL EXCHANGE BETWEEN THE TWO SUPERPOWERS

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. MRAZEK. Mr. Speaker, one of the more pleasing benefits of the thaw in United States-Soviet relations is the opportunity for various forms of cultural exchange between the two superpowers. This reality can only serve to enrich the lives of citizens in both countries, while simultaneously fostering further bilateral understanding of each country for the other.

One cultural category which has benefited directly from the new openness, Mr. Speaker, is the circus. An exchange program involving the National Circus Project USA of Westbury, Long Island, recently resulted in American circus artists performing with Soviet circus troupes for the first time since 1967. This breakthrough came on the heels of a National Circus Project Exchange program which saw a Soviet circus entertainer brought to America to perform for and teach circus skills to American schoolchildren.

The two American circus artists who traveled to the Soviet Union, Greg Milstein and John Foss, carried with them greetings and American flags which I and my Senate colleagues, PAT MOYNIHAN and AL D'AMATO, were privileged to provide. At the beginning of their journey, they became the first American circus performers to participate in the Soviet Circus Festival, a competition for circus artists. In the spirit of international friendship. The American artists did not participate in the competition at the festival, but instead gave a demonstration performance of their talents for the Soviet audience.

Later, the pair was invited to perform with the Latvian State Circus, breaking the 23-year drought of American circus performance in Soviet circuses. At the same time, a precedent for future circus exchanges was created, opening up an estimated one-fifth of the world's circus-viewing audience to American performers.

Mr. Speaker, I'm sure that I speak for my colleagues when I congratulate Jean Paul Jenack, executive director of the National Circus Project USA, Mr. Milstein, and Mr. Foss for their respective roles in helping to promote the cause of international understanding through this important cultural exchange. I wish these gentlemen and their colleagues in the American circus industry the best as they continue their efforts to foster international good will through their future projects.

PERSONAL EXPLANATION

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. UDALL. Mr. Speaker, today, a letter was distributed to all House Members with my signature indicating my support for the Bruce-Oxley CFC amendment to the Clean Air Act. Unfortunately, my signature was added in error. I would like the record to state that I am not in favor of the Bruce-Oxley amendment and will be supporting the Bates-Boehlert amendment when the House considers this important issue.

A CONGRESSIONAL SALUTE TO THE LINDE DIVISION-UNION CARBIDE INDUSTRIAL GASES, INC., COMMEMORATING THE LINDE "ROOTING FOR AMERICA PROGRAM"

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. ANDERSON. Mr. Speaker, it is a pleasure to rise and pay tribute to the Linde Division-Union Carbide Industrial Gases, Inc., for the successful inauguration of the Linde National Rooting for America Program. On May 22, 1990, the national meeting of this program's local coordinators will take place. This occasion gives me the opportunity to honor the Linde Division of Wilmington, CA, for its environmental and economic commitment to the community and the Nation.

At a time when we are all becoming much more cognizant of the environmental degradation of our world, Linde has emerged as a corporate leader in enhancing environmental protection efforts. "Rooting for America" is a 10-year, nationwide initiative to foster environmental awareness, promote the planting and survival of trees, and build community spirit in the towns and municipalities across the country that host Linde facilities. In Wilmington, Linde established a community tree planting council to oversee the program. Under the leadership of the planting council's tree council, with trees and funds provided by Linde, 2,000 trees and seedlings were planted by local school children, scouts, and residents. From the outset of this program, Linde has been a symbol of commitment to environmental excellence in the 1990's. I should note, however, Linde's contributions to the south bay area are not just environmental.

The Linde Division-Union Carbide Industrial Gases, Inc. has been an integral member of the Wilmington and Los Angeles city industrial community since 1967. Linde's air separation plant in Wilmington is southern California's largest producer of oxygen, nitrogen, and argon, and a primary supplier of important resources for the fields of medical and health care, steel production, metal fabrication, electronic and semiconductor manufacturing, oil refining, food processing, and numerous other industries.

In addition to the environmental and industrial contributions to Los Angeles and the south bay area, Linde has contributed over $69 million in wages; $230 million for electrical energy, $70 million for other utilities, suppliers, service, and taxes; and $58 million for truck fleet operations.

These economic contributions have assisted in making southern California the preeminent economic leader in the country.

Mr. Speaker, it is indeed an honor and a pleasure to pay my respect to this company. Linde's concern for the environment, the safety and health of its employees and the surrounding community has shaped the values of this corporation to the degree that neither profits nor production will come before the safe operation of its plants. When it comes to health, safety, and environmental performance, Linde is second to none. On this occasion, my wife, Lee, joins me in extending my heartfelt thanks to this innovative and valued Wilmington company. We wish Linde many successes in the years to come.

COMMENDING SUMNER HIGH SCHOOL IN KENTWOOD, LA, FOR WINNING FIRST PLACE IN AN ANNUAL NATIONWIDE CONTEST FOR THE BEST ANTI-DRUG PROGRAM DESIGNED AND RUN BY STUDENTS

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. BAKER. Mr. Speaker, I would like to take this opportunity to commend students at Sumner High School in Kentwood, LA, for winning first place in the senior high school competition of an annual nationwide contest for the best antidrug program designed and run by students.

During my many antidrug seminars at local high schools, students universally expressed the need for strong measures to help them to say no to peer pressure that encourages illegal drug and alcohol use. Clearly, the students at Sumner High School have been able to rally other students around an efficient program to combat negative peer pressure.

When you consider that the average age of first use is an alarming 12.5 years old, it becomes paramount to initiate creative antidrug programs in our schools which reach and motivate students to help others to say no to drugs. I am very proud of the students at Sumner High School, and believe that they have set an excellent example on how to work together to stop the serious problem of illegal drug and alcohol use.

Clearly, Sumner High School students have shown excellent leadership. I would also like to extend my congratulations to the principal, faculty and staff, parents, and other community groups who have helped the students put forth this program.

THE CASE OF RAOUL WALLENBERG—THE TRUE TEST OF SOVIET GLASNOST

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. LANTOS. Mr. Speaker, in just a few days Soviet President Mikhail Gorbachev will be in the United States for a critical summit meeting with President Bush. While all Americans welcome the changes that President Gorbachev has brought to the Soviet Union

and to the countries of Eastern and Central Europe, there are still serious questions that remain regarding the commitment to democratic reform, freedom of expression, and pluralism in the Soviet Union.

The major test of that commitment to openness, to glasnost is the willingness of the Soviet leadership to resolve the matter of Raoul Wallenberg, the Swedish hero who saved the lives of as many as 100,000 Hungarians during the Holocaust.

Mr. Speaker, there is a moral commitment for us in the United States to continue to press the Soviets for the release of Wallenberg and a full public accounting of his imprisonment in the Soviet Union since 1945. It was at the request of the U.S. War Refugee Board that Wallenberg undertook his dangerous mission to Budapest in 1944, and in 1981 Wallenberg became an honorary citizen of the United States, the second person after Sir Winston Churchill to be so recognized.

Mr. Speaker, an excellent article on Wallenberg and the forthcoming United States-Soviet summit by Spencer Warren appeared this morning in the Christian Science Monitor. Mr. Warren is a former member of the Policy Planning Staff at the State Department and was formerly counsel to one of our colleagues in the Senate.

I ask that Mr. Warren's outstanding article be placed in the CONGRESSIONAL RECORD, and I urge my colleagues to give it careful and thoughtful attention.

[From the Christian Science Monitor, May 22, 1990]

WALLENBERG: A MAJOR TEST OF GLASNOST

(By Spencer Warren)

Glasnost has brought commendable openness to Soviet history. The Kremlin has owned up to the 1939 pact with Hitler partitioning Poland, and has admitted the 1940 Katyn Forest massacre of 15,000 Polish officers and other prisoners.

But there is another crime it has to face. It didn't involve whole nations, but only one man, probably the noblest figure of the 20th century: Raoul Wallenberg.

The exploits of this selfless man are now well known. A 31-year-old architect and businessman, scion of a wealthy Swedish diplomatic and banking family, he traveled to Hungary in July 1944 as a special attaché to the Swedish legation in Budapest. Hungary at the time was an ally of Nazi Germany and was home to the last surviving large Jewish community in Europe. Wallenberg, who had studied in the United States, had been encouraged to undertake his mission by a representative of the U.S. War Refugee Board, which had been created by President Roosevelt, belatedly, in January 1944. The board financed much of Wallenberg's efforts.

When Wallenberg arrived in Hungary, the government of Admiral Horthy had just halted, under international pressure, the Nazi mass deportations (directed by Eichmann), which in two months had carted about 400,000 Jews off to the ovens at Auschwitz. Most of Budapest's 230,000 Jews remained in the capital. With a staff of about 300, mostly Jews, he set up safe houses under Swedish diplomatic protection and gave out Swedish passports by the thousand, saving at least 20,000 people.

In October, the Germans overthrew Horthy after he made armistice overtures to the Allies, installing the fascist Arrow Cross party in his place. Arrow Cross gangs were turned loose against the Jews, massacring 10,000 to 15,000. On Christmas Day 1944, 78 children in one of Wallenberg's shelters were machine-gunned and beaten to death. He forestalled other attacks, confronting armed thugs and intervening with authorities, threatening retribution after the war.

In November, with the collapse of the rail system, the Nazis forced about 40,000 Jews on a death march west toward Austria. Wallenberg drove along the columns, giving out food, medical, and other assistance, and succeeded in pulling out hundreds and returning them to refuge in Budapest. "He • • • showed us that one human being cared," said one survivor. As the Russian armies approached, the S.S. and Arrow Cross were planning to kill the 70,000 Jews remaining in the ghetto, but Wallenberg's threat of postwar retribution may have been crucial in averting this horror. Thus, this wealthy man who forsook the comfort of neutrality, saved, directly and indirectly, up to 100,000 people.

Eichmann and the Arrow Cross made Wallenberg a hunted man, but he eluded them. Then, in January 1945, he disappeared into Russian hands, never to be heard from again. The Soviet line, issued in 1957, and contradicting an earlier statement denying any knowledge, is that Wallenberg died of a heart attack in the KGB's Lubyanka prison in Moscow in 1947, age 35. Last October, after 44 years, they handed over to a Swedish delegation, which included surviving relatives, his passport, personal effects, and a card registering him as a prisoner in the Lubyanka dated Feb. 6, 1945. Maintaining the 1957 position, they also turned over the handwritten note by a long-deceased doctor attesting to Wallenberg's alleged death.

In the past two years Soviet authorities and journals have discussed the case and lauded Wallenberg's heroism, conceding his arrest was "a tragic mistake that has never been corrected." They attribute lack of further evidence to destruction of records by Stalinist authorities, and argue that millions of Russians also disappeared.

But the family and the many Wallenberg committees around the world reject this and believe he is alive, noting numerous reports of sightings through the years. The Soviets may fear the embarrassment of releasing Wallenberg, or revealing details of his fate (was he tortured?) and the reasons for his arrest (he may have been suspected as a US spy), and could be trying to appease Western opinion by placing the onus on their predecessors.

The Reagan and now the Bush administrations have recognized the US responsibility to pursue this case; Wallenberg's mission was sponsored by the US, and in 1981 he became the second foreigner (Churchill was the first) to be made an honorary citizen. Secretary of State Baker raised the matter with Soviet Foreign Minister Shevardnadze last September. Treading a delicate diplomatic path, President Bush must raise it again with Mr. Gorbachev at the summit.

Raoul Wallenberg is our conscience. In mankind's blackest hour, when unsurpassed human depravity seemed to rule, and those who could have helped, including the US, did far too little, he was a beacon of goodness and light. When we see the vicious hatreds of those times rising again in Eastern Europe and Russia, as if the 6 million Jews had never perished, Wallenberg's example forever reminds us that humanity can be redeemed.

IN FAVOR OF BILL AIDING HANDICAPPED AMERICANS

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. BUNNING. Mr. Speaker, I rise in support of the Americans With Disabilities Act. Handicapped Americans and Americans with disabilities are a tremendous national resource and we cannot afford to lock them out of the Nation's work force or marketplace. This bill will go a long way at fully integrating the handicapped into our society.

When the ADA was first introduced, and in fact when it first came to the House floor, I had some very serious reservations about it. I felt that the definitions in the bill were too vague and that it would invite a flood of law suits against small businesses.

However, over the past few days, amendments have been added to the bill which I think address these concerns. By delaying the enforcement of the public accommodations provisions for small businesses and by specifying that an employer can use a written job description as evidence in determining the essential functions of a job, we have taken away a good deal of the uncertainty that plagued the original bill.

Although I would have liked to have seen the Sensenbrenner amendment and the Olin amendment accepted as well, I do believe the bill has been improved sufficiently to merit passage. I urge my colleagues to vote for this important step toward opening the door of society for the handicapped.

GREAT FRENCH FRY WAR

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. HENRY. Mr. Speaker, our U.S. Trade Representative, Carla Hills, met in Ottawa last Friday with the Canadian Prime Minister.

I hope that our Trade Representative was not served french fries at lunch because she would have been in danger of choking if she was aware of the blatant manner in which the Canadians have very cleverly kept American processed french fries out of their market while selling aggressively in ours.

By smokescreen regulation on incoming frozen potato products, the Canadians keep the entire Canadian domestic, wholesale french fry market to themselves—while at the same time they are poised to possibly build two new frozen potato processing plants very close to our border in Maine with their sights on our market. We have no similar lockout provision.

Mr. Speaker, it is necessary for the United States to take action so that the Canadians cannot have their french fries and eat them too.

PERSONAL EXPLANATION

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. BALLENGER. Mr. Speaker, on Tuesday, May 15, I was en route to the House Chamber for a vote on House Resolution 381, but unfortunately, did not make it to the House floor before time had expired. I would like the record to show that had I been present, I would have voted "aye" on rollcall No. 108.

TRIBUTE TO DR. JOSEPH POWER KELLY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. SKELTON. Mr. Speaker, with much pleasure I rise today to recognize a special individual, Dr. Joseph Power Kelly, provost of Webster University in St. Louis, MO. He has contributed 25 years of service to American higher education at Webster University, and many of his finer students have been residents of my Fourth Congressional District in Missouri. Webster University's graduate programs in Kansas City have provided excellent opportunity for the pursuit of master's degrees in teaching and business. Of course, those programs have been managed by Provost Kelly.

As a young man in his home State of Montana, Joe Kelly began an exemplary youth in high school, distinguishing himself as a scholar and an athlete at Butte Boys' Central. He continued to pursue athleticism and academics throughout college at Montana State University, where he became "Jumpin' Joe" for perfecting the new art of the high arcing jump shot. At the same time, he excelled in the study of history and politics.

"Jumpin' Joe" Kelly continued to integrate his interest in history and political science into his life. After finishing his university career, he shared his historical knowledge as a high school professor, until he became the executive director of the Montana Democratic Party.

The lure of being an active leader in politics drew him away from teaching, yet he eventually continued his pursuit of being an educator. He earned his doctorate in political science from Washington University in St. Louis, and in 1965, Dr. Kelly became an administrator at Webster University, where he has become widely known and greatly appreciated throughout a quarter of a century.

Joe Kelly has set an excellent example for students and scholars of my Fourth Congressional District, as well as for the State of Missouri and the Nation. I hope my fellow Members of Congress will join me in congratulating him for his leadership and dedication to education.

THE 28TH ANNIVERSARY OF THE BELLMORE-MERRICK UNITED SECONDARY TEACHERS ASSOCIATION

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. LENT. Mr. Speaker, this year marks the 28th anniversary of the Bellmore-Merrick United Secondary Teachers Association. At a dinner-dance, June 14, this year's retirees from the Bellmore-Merrick school district will be honored for their many years of loyal and dedicated contributions to the field of education. In addition, professionals from the schools and local communities will be recognized as well for their accomplishments.

Secondary education serves as a critical step in the academic preparation of our young people as they venture out into the world. Whether they go on to college or join the working world, what students learn in high school will help them become active, concerned members of society. Secondary teachers, therefore, have a tremendous influence in shaping our young people into the future leaders of America.

Since the association was established in 1961, it has grown to become a powerful advocate for teachers and helped to foster positive changes to promote learning in the classroom. Therefore, I'd like to extend my sincere appreciation to President Lou DeFilippo and all the members of the Bellmore-Merrick United Secondary Teachers Association for their exemplary work to promote excellence in education. Their significant efforts are deeply appreciated. Thank you, and best wishes on this important occasion.

A TRIBUTE TO JEANNINE SUSAN BLANCHET

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Jeannine Susan Blanchet, of Central Falls, RI, this year's recipient of the Congressman RONALD K. MACHTLEY Academic and Leadership Excellence Award for William M. Davies Jr., Technical High School, in Lincoln, RI.

This award is presented to the student, chosen by William M. Davies Jr., Technical High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Jeannine certainly met these criteria during her high school years. She is the salutatorian for her class and has been a member of the National Honor Society for 4 years. She has also won a Merit Award and took first place in a data processing competition.

I commend Jeannine for her outstanding achievements and wish her all the best in her future endeavors.

A TRIBUTE TO MRS. ATHELINA H. LATHAM

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Mrs. Athelina H. Latham on receiving an honorary degree from the Rhode Island School of Design in Providence, RI.

Athelina is receiving this degree in recognition of her many outstanding accomplishments and achievements in the world of art and art education. Today at the age of 82, Athelina is still a vibrant teacher and generously shares her talents with others. Her career in art has spanned almost 60 years and has taken place across the country. She has taught in New York City and Chicago and in her home State of Rhode Island in several institutions. She has taught art to people of all ages, from children to senior citizens. Her achievements are not only in the field of art education but also in hat and glove design. In 1940, she opened the successful Latham French Glove Studio in Chicago, IL, where she received national recognition for her unique designs.

It is a great pleasure for me to congratulate Athelina H. Latham on her receiving an honorary bachelor of fine arts degree from the Rhode Island School of Design. I wish her all the best and continued success in the future.

A TRIBUTE TO RHODE ISLAND GOVERNMENT AGENCIES

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize an exemplary government program that aims at alleviating hunger among our Nation's most needy citizens.

The U.S. Department of Agriculture recently supplied Rhode Island with surplus food to be distributed through State government agencies. I commend the Rhode Island Department of Human Services, the Department of Elderly Affairs, Community Action agencies, and the Office of Food Purchases for a job well done, getting the food distributed quickly and efficiently.

If one child, one senior citizen, goes to bed hungry or undernourished we are condemned with the guilt of failing to provide the bare necessities for our citizens. This is certainly one program that we cannot afford to overlook.

The many dedicated and hard-working people who compose these agencies deserve a good measure of appreciation for their service to our needy citizens. I pledge my support for this program and its efforts on behalf of our Nation's needy citizens.

A TRIBUTE TO JOHN W. TAYLOR

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize John W. Taylor of Middletown, RI, who is being honored as "Elk of the Year" by the members of Newport Lodge No. 104 of the Benevolent and Protective Order of Elks.

John has been selected by his fellow members for his outstanding and dedicated contributions to many worthy causes throughout the years. John has been instrumental in raising thousands of dollars for many worthwhile charities and has truly distinguished himself in his community. He has given countless hours and days for the sake of others, all for the benefit of his fellow citizens. Among John's accomplishments are raising over $6,000 for the Muscular Dystrophy Association through a bowl-a-thon that was coordinated with other charitable groups in the area. He also ran a fundraiser for Nicholas Tasso, an 18-month-old child who has a congenital heart condition. Over 600 people from the community attended this fundraiser to help with Nicholas' medical costs.

It is with great pleasure that I salute John W. Taylor for all his exemplary charitable work. His spirit of compassion for his fellow citizens serves as a model for us all.

A TRIBUTE TO KAREN GRECO

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Karen Greco of Cranston, RI, who has been selected to receive one of two national Very Special Arts Young Playwrights Awards.

Her play, "Ritty and Jesus Came to Dinner and Enjoyed a Plate of Borscht," has been chosen as a national winner in the very performance of the play at the Kennedy Center in Washington, DC, on June 4. Very Special Arts was founded in 1974 by Jean Kennedy Smith as an educational affiliate to the John F. Kennedy Center for the Performing Arts. Very Special Arts provides opportunities in the arts to individuals with disabilities. Very Special Arts Rhode Island has been working toward this goal since 1986.

Each year young playwrights submit scripts nationwide to the Young Playwrights Program. These scripts must deal with some aspect of disability. For Karen, the play has a special meaning that transcends winning the competition. Karen's play is based on her own experience as the daughter of a mentally ill mother. "Ritty" is a two-character play in which a daughter and her schizophrenic mother speak to the audience. Karen's play is truly a powerful piece, not only for its content but also for its personal nature with Karen.

It is with great pleasure that I congratulate Karen for her outstanding achievement. I wish her the best and success in her future endeavors.

A TRIBUTE TO REV. WILLIAM J. O'NEILL

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Rev. William J. O'Neill of Jamestown, RI, who is celebrating his 25th anniversary of his ordination into the priesthood.

Reverend O'Neill, who is now the pastor of St. Mark Parish in Jamestown, has faithfully carried out his solemn oath for a quarter of a century now. I extend my most sincere congratulations to Reverend O'Neill and wish him all the best in the future.

A TRIBUTE TO DR. ROBERT C. ARRUDA

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. MACHTLEY. Mr. Speaker, it is with great pleasure that I rise today to recognize an individual who has so unselfishly given of himself to our Nation's youth.

Dr. Robert C. Arruda of Bristol, RI, is receiving a Fulbright Fellowship for the summer of 1990, in Buenos Aires, Argentina. He is among 20 of America's finest citizens chosen to establish this important cultural and educational bond with Argentina. Dr. Arruda is a college professor of French, Spanish, and Portuguese and has made a lifelong commitment to teaching these languages and cultures to everyone. He firmly believes that global communication is a means toward world peace and has dedicated his career toward promoting this goal. He is a well-respected member of his community and has given countless numbers of hours to many charitable causes.

I would like to thank Dr. Robert C. Arruda for his devotion to his job and his community. He has demonstrated a love for his work that transcends the classroom and pushes others toward better communication. I hope that others may follow his example. I wish him all the best and future success in all his endeavors.

A TRIBUTE TO MRS. ELIZABETH G. BRITO

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. MACHTLEY. Mr. Speaker, it is with great pleasure that I rise today to congratulate a member of my community for all of her outstanding efforts on behalf of our Nation's most valuable resource—our students.

Mrs. Elizabeth G. Brito of Bristol, RI, has been awarded a Christa McAuliffe Fellowship to continue research and expand a system-wide Thinking/Learning/Study Skills Program currently in place in the Bristol Public Schools. Mrs. Brito is the chairperson of the English department at Bristol High School. Her dedication to her profession and her students has continually grown and strengthened as evidenced by her drive to create a learning atmosphere conducive to excellence and achievement. She is also a respected civic leader and has given many hours to a multitude of charitable causes.

I would like to thank Elizabeth for her dedication to her profession and her students. Her love for the work and her community serves as a model for us all. I wish her all the best and continued success in the future.

INTRODUCTION OF H.R. 4878, THE OCEAN DUMPING BAN EXTENSION ACT

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. LENT. Mr. Speaker, during the last Congress, we made the determination to stop the dumping of sewage sludge in our oceans. This is an environmentally sound decision, and I was proud to coauthor the Ocean Dumping Ban Act of 1988, which ended this filthy practice.

But Mr. Speaker, the most well-intentioned plans can and often do go awry. Such a situation is occurring in Nassau County, NY, which I have the pleasure of representing in the Congress. In order for Nassau County to stop the ocean dumping of sewage sludge by December 31, 1991, it has been ordered to build a dewatering facility in Bay Park, a small, residential community.

Bay Park is uniquely unfit for the siting of a sludge dewatering facility. The existing sludge treatment facility is ringed by single family homes. The only access to and from the plant is a single-lane roadway, that winds its way through quiet, residential streets, past a junior/senior high school and three elementary schools. Eighteen-wheel rigs will come roaring through this quiet neighborhood, one every 15 minutes, each and every day.

Nassau County officials are opposed to the siting of the plant in Bay Park. They petitioned the Federal court for an extension of time in which they could enter into contracts with private vendors, so that the sludge could be processed in nonresidential areas without endangering the health and well-being of suburban Nassau County. Unfortunately, the extension request was denied.

Mr. Speaker, my bill is simple: it will grant a 1-year extension to Nassau County so that they may pursue the private vendor option, which is the most environmentally sound manner in which to dispose of sewage sludge. This action is not unprecedented; I understand that the city of New York has been allowed an additional 1 year in which to formulate its alternative to ocean dumping. By granting this additional time, we will afford the residents of Bay Park the opportunity to live without the fear of massive trucks and potentially hazardous sludge endangering the lives of their families.

We pursue environmental policies to better the lives of the people we serve. My constituents are clearly being endangered by the current way in which the Ocean Dumping Ban Act is being implemented. I urge my colleagues to support this truly environmental action, and allow Nassau County's 1.2 million residents the opportunity to devise an environmentally sound method to dispose of sewage sludge.

CONGRATULATIONS TO MOUNT VERNON DARE GRADUATES

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. POSHARD. Mr. Speaker, I am pleased to let you know about a group of future leaders in this country who are attending school in Mount Vernon, IL.

These students have worked with some dedicated adults to complete the DARE Program. They have made a commitment to staying off drugs and learning more about the pitfalls of growing up in this complicated world.

Young people need to know they have the love and support of their families and communities if they are going to take a stand and do the right thing. This is an important first step which I am proud to support.

On behalf of all of southern Illinois, I congratulate the Mount Vernon community for its dedication on this important issue. I wish them continued success in their efforts.

I would like to enter their names into the CONGRESSIONAL RECORD so they may receive the recognition they deserve.

MOUNT VERNON SIXTH GRADE SCHOOLS

Dr. Lawrence Loveall, Superintendent; Dr. Nick Osborne, Assistant Superintendent; Ron Massey, Mount Vernon City Police Chief; Trooper Dave Turner, Illinois State Police.

HORACE MANN SCHOOL

Principal—Mr. Jerry Clemens; Teacher—Mr. Sidney Milliner. Students—Shanda Boling, Risa Cole, Tina Cooper, Ayanna Dinwiddie, Lisa Drew, Leslie Ellis, Jennifer Eskew, Jacquelyn Goddard, Michael Lynn Heck, Eva Helm, Chris Hudgens, Starla Jackson, Christopher Johnston, Ami Jo Jolliff, Emily Mahan, Jason Ridley, Gentry Rudd, Chevette Sanders, Amy Scarber, Brandi Thompson, Donnell Young, William B. Rustin, Markesha Doggan, Anthony Rainey, Billie Wallis, Stacy Rainey, Melodie Johnson, Teny Karch.

BENJAMIN FRANKLIN SCHOOL

Principal—Dr. James Upchurch; Teacher—Mike Vaughan. Students—Crystal Austin, Brandi Bowdler, Aaron Bradford, Dameon Brown, Andrew Buckley, Christy Daniels, Anthony Dickey, Jamie Ellis, Kimberly Fares, Susan Hicks, Jamie Hughey, April Johnson, Amanda Leibold, Billy Lockeby, Brian Lowry, Mark McKinney, Robert Mooney, Justin Morgan, Kristy Peacock, Shana Ramirez, Lori Ramsey, Holly Reynolds, Kellie Schuster, Paula Scott, Amanda Smith, Hazel Smith, Christina Williams.

ABRAHAM LINCOLN SCHOOL

Principal—Carl Baker; Teacher—Rebecca Krueger. Students—Melanie Aissa, Kenneth Allen, April Bain, Ben Bartolomucci, Alex Black, John Brown, Charlotte Cotton, Steve Davis, Andrea Dickneite, Jenny Eller, Beth Ellis, Jacque Epperson, Cheryl Glenn, Julie Griffin, James Hargrove, Kesha Harper, Olivia Hart, Alex Hathaway, Tammy Henson, Michael Hicks, Rosalind Hodge, Amy Hopper, John Horner, Lincoln James, Jeff Johnson, Landon Jones, Michael Kroeschen, Shareen Ladd, Aaron Lewis, Charles Longwell, Billy Miller, Nina Navarro, Amanda Nixon, Danny Pribble, Raymond Richards, Dennis Riley, Matt Rogers, Nitai Spiro, Matt Sweeten, Wendy Tankersley, Rachel Taylor, Cameron Wagner, Doug Wetzel, Anthony White, Jon Wilimzig, Edon Williams, Jeff Wimberly, Sabrina Winter, Kelly Wood.

J.L. BUFORD SCHOOL

Principal—Anson Smith; Teacher—Kurt Strothman. Students—Marc Apostol, Dedrick Bell, Chrissy Bolerjack, Lana Catlin, Eric Cho, Danny Day, Dalyn Eggemeyer, Beth Farris, Richard Flanagan, Jessica Hall, Katrina Haslow, Christie Hulbert, Cortell Jennings, Jared Knapp, Colin McLane, Jennifer Mickelsen, Jeffrey Moore, Chris Palmer, Christy Ray, Jessica Scherer, Adam Stowers, Chris Throgmorton, Gavin Turner, Scott Williams, Mary Jo Willmore, Kip Woodgett, Lloyd Neal, Katheryn Ferrall, Shawn Flatt.

Teacher—Sue Nance. Students—Brandon Anderson, Brian Atchison, Christina Barrett, Jason Bowden, Valerie Carr, Sara Coatney, Nathan Davis, Kenneth Elzy, Melody Etzkorn, Brandon Folsom, Jennifer Galiher, Roger Graham, Sandy Hall, Crystal Hernadez, Josh Johnson, Cynthia Kee, Jennifer McDonald, Michael Martin, Andrew Meyer, David Morgan, Angie Phoenix, Troy Pietsch, Andy Ratcliff, Traci Schell, Amber Strickland, Willie Suggs, Ryan Toliver, Neal Wells, Susanna Widicus, Steven Willis.

DR. ANDY HALL SCHOOL

Principal—Dr. Judith York; Teacher—John Cherry. Students—Michael Barner, Randy Boyd, Kelly Bumpus, Stephanie Caldwell, Broderick Disroe, Tyrone Harris, Stacy Hawkins, Rebecca Hefner, April Hodges, Mat Hodges, Ann Jones, Chris Jones, Michelle Jones, Amy Meeks, Kathy Meredith, Kishia Neal, Misty Odle, Denise Perkins, Kristopher Prior, Scott Scrivner, Earnetta Secrest, Jayson Silliman, Kim Stokes, Larry Wright, Michael Yon, Brad Hale, Keisha Lewis, DeDe Wilson, Wendy Wert.

"OPERATION JUST CAUSE" VETERANS REMEMBERED

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. GAYDOS. Mr. Speaker, the month of May has special significance for America's military veterans and their families.

This Monday, May 28, is Memorial Day; a day when the Nation as a whole bows its head in honor of its deceased veterans, particularly those killed in battle.

Earlier this month, on May 8, some of us remembered it was VE Day; the 45th anniversary of the end of World War II in Europe.

And, this past weekend, Saturday, May 19, was "Armed Forces Day" when Americans paused to pay tribute to the men and women who now wear the uniform of their country.

In connection with the latter event, I was privileged to take part in a ceremony hosted by VFW Post 5008 in East Pittsburgh, PA, that may have been the only one of its kind in the Nation. The program did more than just recognize today's military personnel. It singled out for special acknowledgment those veterans who participated in "Operation Just Cause" in Panama last December.

Four members of the armed services who took part in that action dedicated a plaque in memory of the 23 Americans killed in the line of duty.

It has been said the Nation which forgets its veterans will itself be forgotten. Let me assure everyone here the people of East Pittsburgh and southwest Pennsylvania have not—and will not—forget them.

On behalf of my colleagues in the Congress I commend those who participated in the remembrance of "Operation Just Cause" and, in the process, remembering all veterans:

Robert Matthews, commander, VFW Post 5008; Frank Marko, adjutant, American Legion Post 2, Guy Bordogna, past commander/service officer, VFW Post 5008; John Biedrzycki, past county commander/past district commander, VFW; Tom Berlich, mayor of East Pittsburgh; the Reverends Robert J. Boyle, Russell Maurer, John Fedornock, and E. Jerome Alexis, a former POW.

Helen Marchitello, president of VFW Ladies Auxiliary; Kathleen Adams, president of American Legion Ladies Auxiliary; Rear Adm. John Rohleder, USN retired; State Senator Michael Dawida; State Representative Tom Michlovic; Allegheny County Commissioner Larry Dunn; county recorder of deeds Michael Della Vecchia; members of the firing squad from Turtle Creek VFW Post 207; Curt Verner and David Kaufman, who played "Taps"; Helen Harchelroad, decorations; and members of Woodland Hills Junior Chorus.

Dedicating the memorial plaque to their fallen comrades were 1st Lt. Earl Gentile, U.S. Army, of North Braddock, PA., a neighboring community; and Chiefs Lawrence Barrett, Richard Hansen, and David Knauff, representing the U.S. Navy.

Mr. Speaker, what I witnessed last Saturday made me very proud to be an American, very proud to be a veteran and very proud of the people I represent in the Congress of the United States.

CONGRESS SHOULD STOP DELAYING AID TO CENTRAL AMERICAN EMERGING DEMOCRACIES

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. RHODES. Mr. Speaker, President Bush has implored Congress to act expeditiously on his request for assistance to Panama and Nicaragua, and has insisted that Congress not leave for the Memorial Day recess until a bill which he can sign is on his desk.

The President is absolutely right, and in fact I wish he had gone farther and threatened to

use his constitutional power to hold Congress in session until such a bill is passed.

It is nothing short of scandalous that Congress has not acted on the President's request for assistance to Panama, which came in January, or for Nicaragua, which came in March. These two countries are in desperate need. President Chamorro of Nicaragua has been forced to the humiliation of sending a cable to the President, begging him for emergency interim assistance. The President has been forced to the humiliation of telling her that he does not have the authority even to provide her country with emergency assistance.

This is outrageous.

These two countries are in the condition they are in because of explicit policies of the United States. This country imposed economic sanctions on both Panama and Nicaragua, supported military efforts in Nicaragua, and mounted our own military effort in Panama to pursue our goal of promoting democracy in Central America. The people of both countries responded in freely held elections by throwing out their dictators and installing democratic regimes and reforms. They have done what we asked of them, and now we refuse to provide them with the assistance they need to restore their economies and to ensure the success of their aspirations for peace, freedom, and democracy. At the same time, the Congress is threatening to cut off aid to El Salvador, a democracy threatened with destruction by a Marxist insurgency.

Have we gone crazy?

It is time to lay the responsibility for this unconscionable inactivity right where it belongs: at the doorstep of the Democrats in Congress, starting with Speaker FOLEY and Majority Leader MITCHELL, and including every single Democrat Member of the House and Senate. The President of the United States has been reduced to pleading and even threatening the Congress to get it to do its duty and to uphold the word and the obligation of this country and to take the initial steps necessary to restore dignity to the people of Central America.

How can we be proud of forcing the duly elected president of a sovereign nation, whose success we applauded, to come begging to Washington for assistance she was long ago promised? How can we be proud of destroying the economies of two countries to further our interests, and then walking away from them when our goals are achieved? How can we be proud of abandoning a fledgling democracy whose very existence is threatened?

Can we conclude from all of this that the Democrats don't want democracy to succeed in Central America, that they want Noriega back in power in Panama, the Sandinistas to return to Nicaragua, the Marxists to rule El Salvador? What other conclusion can we draw?

President Bush, keep the Congress in town until it does its duty. The people of Nicaragua and Panama deserve no less.

CLEAN AIR ACT AMENDMENTS OF 1990

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3030) to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air.

Mr. ROGERS. Mr. Chairman, the measure reported out of the Energy and Commerce Committee is a comprehensive, complex, and tough bill. The House compromise is tougher than the administration's proposal, and in some key aspects, tougher than the legislation which passed the Senate.

I am acutely aware of the 10-year stalemate that has plagued previous attempts to reauthorize the Clean Air Act. Much credit of course must be given to the President for breaking that log jam, and much credit must be given to the able leader of the Energy and Commerce Committee, Mr. DINGELL, and the ranking Republican member from New York, Mr. LENT. Concessions have been worked out on a number of issues, including air toxics provisions, a tail pipe standard agreement, and new requirements for ozone nonattainment problems in the most heavily polluted cities. While the auto companies are not wildly enthusiastic, they have a can do attitude about these requirements, at least for the first phase of these requirements.

But, we live in a very complex industrialized society. For every requirement we enact there is an economic impact, there is a job impact, a small business impact, and those tabs must be paid. The Business Round Table recently published a comprehensive analysis of the costs of various clean air proposals. Their best cost estimates using models developed by several organizations range from $31 billion to $104 billion. Moreover, a Harvard University report on environmental regulation and U.S. economic growth finds that pollution abatement controls were a significant contributor to the growth slowdown of the 1970's. There is an economic price to be paid, and we must readily acknowledge that the price is high.

The Commerce Department reports that we currently spend $32 billion a year on environmental regulations. Consequently, we have seen significant improvements in the air quality across the country. For example, today's cars are 25 times cleaner than 20-year-old cars. The Environmental Protection agency reports that since 1978 emission of ambient airborn lead declined 88 percent. From 1973 to 1988, despite an 85-percent increase in coal use nationwide, sulfur dioxide emissions have decreased 35 percent. Nitrogen oxides have declined 12 percent since peaking in 1978. In my home State of Kentucky, electric utilities have cut sulfur dioxide emissions in half from 1975 to 1985, while increasing the amount of coal burned by 17 percent. All these decreases are the result of the current clean air law.

But as we look for ways to continue these improvements, we may well jeopardize the only course that can guarantee a cleaner environment. The solution to our nation's pollution problems is innovation, better technology, and unleashing the power of the human mind in a free society. The results we seek cannot be achieved if we go after them with the heavy artillery of big government. History tells us that closed societies, where Government controls technology and innovation, have dismal success records at achieving clean air goals. I am concerned that we are forgetting the lessons of history. It is not surprising to me that the West Germans have had to waive the air pollutant standards on East German cars. That is a typical problem of command-control economies. We must not move in that direction. The first principle of any clean air bill should be maximizing flexibility for innovation.

Last, Mr. Chairman, but certainly not least, I want to focus on the acid rain title of the bill. Although this title has also been worked out in committee, I remain deeply concerned that title V is not a fuel-neutral bill. Because of the effects of the so-called cap in phase II, the acid rain provisions will severely restrain the use of coal for utilities in high growth States. Although the committee report acknowledges this problem, the agreement does not, in my opinion, address this issue.

Moreover, the economic impacts of the acid rain title on coal communities in Kentucky will be concentrated on Kentucky's small coal towns which are almost exclusively dependent on mining for their economic viability.

In my district, which is sometimes referred to as a low-sulfur coal area, only 20 percent of the coal can meet the stricter 1.2 pounds-per-milion BTU standard required in phase II. EPA has greatly underestimated the potential mining-related job loss in its cost estimates. According to estimates from the Clean Air Working Group [CAWG], the potential jobs at risk of being lost from clean air in my district could be as high as 1,400. One coal company in particular is now threatened with extinction because of the uniquely crafted features of the sulfur dioxide emission allowance system. Eight hundred jobs in Whitley and Knox counties are at risk. Ironically, this firm produces 2.5 million tons of some of the lowest sulfur coal in the State of Kentucky, and it generates $100 million of revenues into the Kentucky economy. That hits us very hard when parts of my district are already suffering with unemployment rates as high as 18 percent. Although I have discussed this problem with committee members at great length, the committee was unable to resolve the problem.

We also know that the acid rain title will mean higher utility rates for Kentucky's ratepayers. The latest estimates from the Kentucky Energy Cabinet reveal that Kentucky's consumers will pay anywhere from 12 to 18 percent more for their electricity, depending on how utilities comply.

Finally, Mr. Chairman, what about the science behind the acid rain issue? Let me close by discussing the National Acid Rain Precipita-

tion Assessment Program [NAPAP] that was established in 1980. This report was planned as a comprehensive 10-year study. Over the decade, the cost of that program has risen to over one-half billion dollars. The NAPAP Program is the most broadly based analysis on the effects and causes of acid rain ever undertaken. The Commission has reviewed over 5,000 documents and studies, more than 300 authors explained their findings, and more than 100 peer reviewers examined the reports.

Although the final report will be out in September, a draft was presented to an international conference of scientists in February. According to the program administrator, there is little probability that any of the conclusions would be changed. Therefore, the report offers very conclusive and significant findings.

The findings under section 18 that deal with forests are, and I quote:

There is no evidence of a general or unusual decline of forest in the United States or Canada due to acidic deposition or any other stress factor. Moreover, there is no case of forest decline in which acidic deposition is known to be a predominate cause.

In turning to the issue of crop yields, the NAPAP report states and I quote:

Ambient sulfur dioxide concentrations by themselves are not responsible for regional scale crop yield reduction in the United States.

Mr. Chairman, these excerpts offer a revealing look at what the scientists are saying about acid rain. This is a $1 million problem with a $1 billion price tag. Unfortunately, the debate in Congress is not about science. The proposal to control emissions that form acid rain—now being debated on the House floor—could cost $5 to $10 billion a year; the benefits, in terms of reduced damage, are uncertain and, at best, quite small.

I have a summary of each section of the NAPAP report; and, I insert that summary in the RECORD:

SUMMARY

The following summary comments are keyed to the individual section numbers in the Detailed Comments section which follows:

1. SO_2 Emission Trends.—National SO_2 emissions decreased by approximately 25% from 1973-1983 and have remained relatively constant since that time. Without new controls, emissions may increase or decrease by as much as 20% between 1990 and 2010. Emissions are expected to decline from 2010 to about 2030 as pre-NSPS plants retire. New plant growth after 2010 could result in an increase in total emissions after 2030, when all pre-NSPS plants have been retired.

2. SO_2 Effects Categories.—Regional scale SO_2 effects are usually evaluated for surface waters, forests, crops, materials, human health and visibility (see items 3 through 8 below).

3. Surface Waters.—A percentage (0 to 6 percent of mid-Atlantic, northeastern and midwestern lakes and streams are acidic and a further percentage (0 to 18 percent additional) are highly sensitive to acidification (<50 μeg L acid neutralizing capacity [ANCI]). Florida is a special case. Biological impacts occur in some acidic and sensitive waters. In the Northeast, the time for biological recovery may be long, so that little near term benefit would be expected to result from rapid emission reduction. In the Mid-Appalachian Region, the time scale of acidification and/or recovery (chemical and biological) is an important unknown. It will be reported in the NAPAP 1990 Assessment. Preliminary findings suggest that in some mid-Atlantic subregions, significant acidification may occur within a few decades.

4. Forests.—Impacts from acidic cloudwater in combination with other stresses affect some high elevation spruce forests in the East. However, there is no evidence of widespread forest damage from acidic deposition. Long-term changes in the chemistry of some sensitive soils are expected, although it is uncertain whether this will affect forest health.

5. Crops.—SO_2 emissions do not reduce crop yields, except possibly on a local basis near very large sources. Crop plants are not sensitive to the wet deposition of acidic substances.

6. Visibility.—NAPAP has not conducted independent research on visibility effects or values. However, visibility benefits should be included in any assessment of SO_2 emissions reduction, and are being included in NAPAP's Integrated Assessment. Atmospheric sulfate particles derived from SO_2 emissions are a significant contributor to reduced visibility and emission reductions will lead to improved visibility.

7. Human Health.—NAPAP program has not conducted independent research on the "direct" effects associated with inhalation of SO_2 or its transformation products, which include acid sulfate aerosols. The health risks associated with acid aerosols are being evaluated by EPA for possible inclusion as a National Ambient Air Quality Standard. Reductions of SO_2 emissions would reduce risks associated with current loadings. NAPAP continues to evaluate the results of research conducted on the "indirect" health effects of acid deposition (e.g., related to mobilization of lead, mercury or other metals in acidic waters).

8. Materials.—Both wet and dry sulfur deposition accelerates the deterioration of carbonate stone, galvanized steel, paint, etc. Materials benefits would be greatest if deposition in urban areas is reduced, thus local sources need to be considered.

9. Nitrogen Oxide Emissions.—NO_2 emission control will be beneficial in several regions. This favors the use of technologies that remove NO_2 including low NO_2 burners and clean coal technology (CCT) compared to the current generation of scrubbers in cases where controls may be required at existing plants.

10. Impact in Canada of U.S. SO_2 Emissions.—U.S. emissions reductions intended to benefit effects categories, e.g., surface waters, health and visibility, in the Adirondack area and New England will also benefit geographical areas in northeastern Canada. There is no supportable evidence, however, for widespread impacts on Canadian forests.

11. Economic Valuation of Benefits.—No comprehensive benefit evaluation is available, nor likely in the next year. Control strategy evaluations must necessarily involve both economic and physical measures.

12. Control Strategy Implications.—Enhanced energy conservation is the lowest cost means of emission reductions. Coal substitution and coal washing (where not already practiced) are low cost options for near term (e.g., by 1995) emission reductions. Clean Coal Technology (CCT) has many benefits (including reduced global climate impacts) compared to current scrubber technology, but will need a post-2000 deadline (e.g., 2003-2005) for full implementation.

For its integrated Assessment, NAPAP is evaluating the timing, magnitude, location, and costs of various control options. The issues revolve around the use of currently available techniques such as, fuel switching, coal cleaning, LIMB, duct injection, and scrubbing versus the next generation of clean coal technologies. The Clean Coal Technology Program will be resolving technical and economic questions of emerging techniques so that their performance and penetration rate can be determined.

13. NAPAP Assessment Reports.—NAPAP's fully reviewed reports (to appear in late-1989 and 1990) and the NAPAP International Conference in February 1990 are intended to assure credibility for the technical information generated by the program for use by policymakers in the development of acid rain control legislation.

1. SO_2 Emission Trends—Past and Projected:

1.1 National SO_2 emission rates have declined by 25 percent (from 32 to 24 million tons per year) between 1973 and 1988. Much of this reduction occurred in Ohio River Valley and midwestern states. Most of the reduction had been achieved by 1983, and national SO_2 emission levels have been approximately constant during the past five years.

1.2 The fraction of SO_2 emissions from tall stack sources increased during the 1973-1988 period. As a result, the reduction in long-range transport has been less than the 25 percent reduction in emissions.

1.3 If no new control legislation is adopted, various projections of national SO_2 emissions during the next 20 years range between ± 20 percent or more, compared to current levels, depending upon assumptions about energy demand, fuel mix and new control technology penetration rate at existing power plants. Beyond 2010, there is general agreement that SO_2 emissions will decline, as a result of the retirement of older, higher emitting plants.

1.4 For this memorandum, a maximum emission reduction of 12 million tons per year (50 percent decrease) was considered, in order to comment on the expected benefits in the case of the largest reductions proposed in the current acid rain debates. Smaller total decreases (e.g., 6, 8 or 10 million tons per year) would result in smaller benefits; however, the relationship between emission reductions and benefits may not be linear. Two schedules for the 50 percent reduction case were considered:

2000 Target: 50 percent decline (from 24 to 12 million tons per year) by 2000, with constant emissions after 2000.

2005 Target: A 25 percent decline (24 to 18 million tons) by 2000, a further 25 percent decline (18 to 12 million tons) by 2005, with constant emissions after 2005.

2. Effects Categories for SO_2 Impacts:

2.1 The following effects categories are usually considered when evaluating the potential regional benefits of SO_2 emission reductions:

Surface Waters: Effects on lakes, streams, and coastal estuaries—both chemical and biological.

Forests: Effects on unmanaged and commercial forests.

Crops: Effects on agricultural crops.

Materials: Effects on exposed construction materials and cultural resources.

Health: Direct (inhalation) and indirect (other pathways) effects on human health.

Visibility: Effects on visual range through the atmosphere.

2.2 Important Note: Ozone (and other oxidants) and nitrogen oxides also can cause effects in the above categories, as noted in the following sections. Such ozone and nitrogen oxide effects will not be improved by SO_2 emission reductions alone.

The extent of changes in effects which may arise from ozone and nitrogen oxide would depend on the selection of control methods which included reductions in more than sulfur emissions alone.

3. Sulfur Deposition Effects on Surface Waters:

3.1 Current Status of Surface Waters: A percentage (0 to 6 percent) of eastern and midwestern lakes and streams are acidic, and a further percentage (0 to 18 percent additional) of these lakes and streams are highly sensitive to acidification. Regional distributions of lake and stream acidity are summarized in the following table. While this survey information cannot be used to establish the cause of a water body's status, it provides a description of the number of acidic and very sensitive surface waters for the population sampled. Biological impacts are expected in acidic waters and may occur in sensitive surface waters. Snowmelt and intense summer storms can increase surface water acidity and lead to many more acidic waters than reported, particularly during biologically sensitive times of the year.

Region [1]	Status (number of lakes or streams in percent)	
	Acid (ANC $<0\mu eg\ L^{-1}$	Most sensitive (ANC $<50\mu eg\ L^{-1}$
Lakes: [2]		
Northeast	5	19
Upper Midwest	2	15
Southern Blue Ridge	0	1
Florida [3]	22	35
Mountainous West	0	17
Streams:		
Interior Mid-Atlantic	3	11
Mid-Atlantic Coastal Plain	6	24
Interior Southeast	0	5
Florida [3]	12	61

[1] Regions reported are as defined in NAPAP and EPA documents. Values reported are regional averages. Proportions of acidic and most sensitive surface waters within defined subregions are considerably lower or higher than this average.

[2] Small lakes (less than ten acres) were not sampled by EPA but in some areas (e.g., New York's Adirondack Mountains) are more likely to be acidic than larger lakes.

[3] Compared to other regions, it is better established that surface water acidity in Florida is the result of other processes in addition to acidic deposition.

3.2 Future Projections:

Indications are that the steady-state hypothesis holds in the Northeast, i.e., taken as a region, surface waters are in equilibrium with sulfur inputs. In the Southern Blue Ridge Province systems are not in equilibrium and are still absorbing sulfur. Assuming these conditions to be true, the following results may be expected.

The relationship between acidity changes and sulfur additions is complex. In general, percentage changes in sulfur will be accompanied by small changes in acidity.

3.2.1 Constant SO_2 Deposition: In the Northeast, little change will occur: few acidic systems will recover and few additional systems will become acidic. In the Southern Blue Ridge Province, significant changes could occur after the protective capacity of watersheds is exhausted (especially sulfate absorption capacity). Biological impacts will generally follow changes in acidity.

The Mid-Appalachian Region (part of the Interior Mid-Atlantic Region) is presently a key unknown. Significant research for this region is being completed and will be included in the NAPAP 1990 Assessment. This research was undertaken when EPA's National Stream Survey showed that sensitive surface waters occurred in some of the mid-Atlantic regions and the additional analyses suggest that significant acidification may occur within a few decades.

3.2.2 2000 Target Emission Reductions: In the Northeast, a percentage of systems will eventually improve chemically. This response will not be immediate since the watersheds will "bleed" sulfur into surface waters and a limited number of systems may continue to acidify. Due to the SO_2 reduction, more systems improve (chemically) than become acidic. Changes in acid neutralizing capacity will not be as large as change in sulfate. Biological recovery (e.g., self-reproducing fish populations) may require additional time. In the Southern Blue Ridge Province, the rate at which acidification occurs is slowed. Although there are few acidic systems at present, it is possible that some systems may become acidic in the future.

3.2.3 2005 Target Emission Reductions: Surface waters in the Northeast will respond similarly to the 2000 target case, except that the responses will be displaced in time, by less than five years. Recovery (chemical and biological) will occur but the response will not be immediate. Systems in the Southern Blue Ridge Province will continue to receive net increases in sulfur for an additional period. More systems may become acidic over this decade, but the additional number of acidified systems would be small.

4. Sulfur Deposition Effects on Forests:

4.1 Current Status: Preliminary indications suggest there is no widespread forest damage from acidic deposition. High elevation spruce forests in the eastern United States are effected by acidic cloud impacts, in combination with other stresses. At high elevations (>3400 ft) in the Adirondack and Green Mountains, the growth of red spruce has declined and mortality has increased (>50 percent dead.) Mortality in the Southern Appalachian Mountains is within the natural range but growth has declined. These forests represent less than 0.01 percent of the total eastern forested area. Cumulative effects of acidic deposition on some soils in the East may affect soil fertility in about 50 years. Sulfur deposition has changed soil nutrient status in the Midwest but this does not appear to have affected forest health.

The finding of "no widespread sulfur damage to forests" is widely acknowledged among most forest scientists, but varies from the views commonly reported in the media. NAPAP's state-of-science critical reports, with extensive reviews by all interest groups, are intended to assure credible findings on forest status. It is generally agreed that ozone reduces forest health in southern California and possibly also in some areas of the eastern U.S.

4.2 Future forecasts

4.2.1 Constant Sulfur Deposition: Continued decline of red spruce may occur at high elevation, although the remaining trees may be genetically more resistant to ozone and acid stress. Effects would occur only in association with another stress, e.g., drought, extreme low temperatures.

Some forest soils in sensitive regions in the East will exhibit reduced fertility from acidic deposition in about 50 years. This may affect forest growth.

4.2.2 2000 Target Emission Reduction: Current information suggests that only high elevation spruce growth would be improved if sulfur deposition were reduced. Although this represents less than 0.01 percent of the forests in the U.S., it is an important natural resoruce in our National Parklands. High elevation forests are also important in erosion protection. Possible changes in soil chemistry in sensitive regions in the East would be reduced and delayed if deposition were significantly reduced.

4.2.3 2000 and 2005 Target Emission Reductions: The reduction of stress on high elevation spruce growth would be delayed by a time of less than five years. Long-term (50-year) soil acidification improvement would be delayed slightly. Cumulative changes in the chemistry of sensitive soils would be reduced, but not as rapidly.

5. Sulfur Deposition Effects on Agricultural Crops:

5.1 Current Status: The yield per acre of most crops in North America has increased steadily over time for the past 60 years because of genetic improvements through crop breeding and improved management practices such as fertilization, irrigation and pesticide application. Year-to-year and site-to-site variations in crop yield are principally the results of natural environmental factors and management differences. Research indicates that crop yield is not impacted by acid rain. However, in many regions of the country, ambient levels of ozone reduce the yields of some crops by 1 to 15%.

5.2 Future Forecasts:

5.2.1 Constant Sulfur Deposition: No changes in crop yield are expected if current levels of SO_2 emissions continue.

5.2.2 2000 or 2005 Target Emission Reduction: No agricultural benefits are expected with any reductions in SO_2, except possibly on a local scale (within a few miles) near large smelters, refineries, or multiple point sources.

The benefits associated with the input of sulfur (a plant nutrient) to agricultural regions would be reduced if SO_2 emissions were reduced. This would result in higher sulfur fertilizer requirements to maintain optimal crop growth. Any control strategies that reduce ozone levels (e.g., NO_2 reduction) would likely benefit agricultural production.

6. SO_2 Emission Effects on Visibility

6.1 Current Status:

Summertime visibility over much of the eastern U.S. has decreased to a current visual range of generally less than 20km for areas east of the Mississippi River, except for northern New England, where it is 40 to 60km. Estimates of natural visibility in the East suggest background levels of visual range between 60 to 80km; substantially more than current levels in the East but still less than half of current western levels. Degradations in western visibility have not been as severe as in the East. Western visibility generally ranges from 100–200km.

In the rural East, reduced visibility results primarily from light scattering by fine particles, predominantly sulfate particles. In urban areas and in the rural West, light absorption and scattering by carbon particles is also important. The higher humidity in the East significantly increases the light scattering by sulfate particles compared to the West. Scenic vistas are affected by pollution at all 35 National Parks within the contiguous 48 states, and sulfate particles

are the single most important factor in visibility impairment.

6.2 Future Forecasts:

6.2.1 Constant SO_2 Emission: Visual range would remain constant under current SO_2 emissions levels.

6.2.2 2000 or 2005 Target Emission Reduction: Visual range should improve immediately if SO_2 emissions are reduced, although quantification of the relationship is not yet possible. (Quantitative estimates are being prepared for the NAPAP assessment reports.)

7. SO_2 Emission Effects on Human Health

7.1 Current Status:

Both SO_2 and sulfate aerosols can result in bronchoconstriction in asthmatics and changes in mucociliary clearance. The SO_2 National Ambient Air Quality Standards (NAAQS) are met in most regions of the nation, and the remaining SO_2 nonattainment cases are subject to further regulatory control under existing Clean Air Act authorities. In 1985, the SO_2 NAAQS were exceeded in parts of 60 counties in 16 states.

Only a few direct measurements of ambient acidic sulfate aerosol concentrations have been made, and the highest measured levels are slightly lower than the concentrations which cause the effects mentioned above. However, some epidemiological studies suggest the possibility of long-term chronic effects resulting from exposure to high ambient levels of acid aerosol. EPA is currently considering the need for an acid aerosol ambient standard, and NAPAP is developing its analysis in close collaboration with the EPA regulatory decisionmaking.

Violations of the ozone NAAQS occur in many regions in the U.S. and it is likely that decrements in lung function occur in sensitive individuals in these areas.

Several indirect health impact mechanisms are being evaluated, including the possible mobilization of lead in low pH drinking water systems, and of mercury in lakes, with subsequent accumulation in fish used for food consumption. These studies are continuing; reported risk estimates will likely be low, but may not be negligible in all cases. (NAPAP's state-of-science reports to be released for public review in November 1989 will report on these risks.)

7.2 Future Forecasts:

7.2.1 Constant SO_2 Emissions: Chronic effects (if any) from acid aerosols would continue among sensitive individuals.

Indirect health risks (if any) would continue at approximately current levels.

7.2.2 2000 or 2005 Target Emission Reduction: Large-scale (50%) emission reductions would benefit individuals in those localities not currently attaining the SO_2 NAAQS. However, broad SO_2 emission reductions may not be a very inefficient means of achieving these benefits (i.e., if such emission reductions were not otherwise required).

Indirect health risks (if any) would be reduced. If significant indirect risks were confirmed, evaluation of specific emission reduction requirements in the affected regions would be necessary.

8. Sulfur Deposition Effects on Materials:

8.1 Current Status:

Acidic deposition increases the rate of deterioration of some building materials (e.g., galvanized steel and carbonate stone), some surface coatings (e.g., carbonate paint) and cultural resources (e.g., statues). The relationships between acidic deposition rates and deterioration rates for various materials are not well quantified, and are currently being investigated. Because of the large overall external maintenance costs for structures in the nation, enhanced deterioration from acidic deposition could potentially be significant. This is problematic since no generally accepted estimates of maintenance costs resulting from all air pollution impacts (nor from acidic deposition specifically) are currently available. Also, no credible analysis of consumer maintenance practices has yet been done. Additional information on this issue is anticipated for the 1990 Assessment.

Since most of the nation's materials and cultural resources are in urban areas, the focus of control decisions is similar to health effects, i.e. local sources need to be considered. Emissions from a limited number of remote sources (e.g., power plants) may result in a less than proportional impact on urban structures.

8.2 Future Forecasts:

8.2.1 Constant Sulfur Deposition: Current levels of surface deterioration will continue. Local situations of corrosion and other air pollution impact have been described but larger regional patterns of damage (i.e., those which would benefit from large regional SO_2 emissions reduction) are not well-characterized and constitute a significant gap in our knowledge.

8.2.2 2000 or 2005 Target Emission Reduction: Emission reductions will, at a minimum, provide an additional margin of safety relative to possible regional scale materials impacts from acidic deposition. No estimates of specific benefits are currently available. (NAPAP will report on the materials benefits which may result from sulfur emission controls in its Integrated Assessment in 1990. Because of significant data and inventory limitations, specific projections are unlikely. However, bounding estimates will be reported.)

9. Importance of Nitrogen Oxide (NO_2) Emission Reductions:

NO_2 emissions, which result from all combustion sources (i.e., both motor vehicles and stationary sources) can cause three types of effects on the regional scale:

Acidic deposition—typically 10 to 30 percent of that caused by sulfur oxides in the East. However, NO_2 may be a major component of acidic deposition to the extent that it occurs in the West.

Ozone (O_3) is produced photochemically by NO_x and volatile organic compounds (VOC). The O_3 production or degradation rate depends on the local ratios and absolute amounts of NO_x and VOC. This is very important because of the widespread nonattainment of the O_3 standard.

Contribution to eutrophication of coastal waters—may be a significant contribution (10 to 20 percent) in some cases.

Nitrates, derived from NO_x may be important in some acute acidification episodes in surface waters.

In view of the possible effects, the question of NO_x controls should be addressed as part of any evaluation of SO_2 control strategy.

Current SO_2 scrubber technologies remove very little NO_x emissions. However, currently available low NO_x burners may achieve 30-50 percent reductions. Some of the Clean Coal Technologies now being demonstrated (fluidized bed combustors, advanced scrubbers) also remove 30 to 50 percent of NO_x emissions.

10. Impact of U.S. Emissions on Canada:

The principal impact of acidic deposition in southeastern Canada is the same as in the northeastern United States—acidification of a percentage of watersheds and lakes in geologically sensitive regions. Because of the large number of Canadian lakes in sensitive regions, this is a particular concern. Acidic deposition in both Canada and the United States results from sources on both sides of the border. It is generally agreed that the net transboundary flux of sulfur oxides is from the United States to Canada.

Canadian government representatives frequently assert significant forest damage as a result of acidic deposition. (Indeed, some of the best documentation of severe forest damage from extremely high levels of sulfuric dioxide impact come from the Canadian experience near the nickel smelter in Sudbury, Ontario—the world's largest individual SO_2 source.) Most Canadian and U.S. scientists now agree that there is no scientific basis to relate widespread forest effects to current levels of deposition. Long-term cumulative impacts on the fertility of certain soils is being evaluated with respect to possible forest affects.

Canadian representatives have expressed specific concerns about acidic deposition impacts on its sugar maple industry. Current information indicates that insert infestation and management practices significantly contribute to the observed impacts. Note: Canadian production of maple syrup was at a record high level in 1988.

U.S. emissions reductions intended to benefit effects categories (e.g., surface waters, health and visibility) in the Adirondack area and New England will also benefit the principal areas of concern in Southeastern Canada.

II. Economic Valuation of Benefits:

NAPAP has avoided basing its assessments on explicit comparisons of the economic benefits and costs of controls, partly because only limited information is available on the economic values associated with some of the effects. NAPAP is currently conducting economic benefit evaluations in a limited number of situations, and will report on methodologies employed and specific results in its assessment reports.

Because of the impracticality of developing credible benefit estimates for all impacts by 1990, NAPAP is evaluating alternate emission reduction strategies on a comparative basis, in order to report on strategies which achieve largest benefits (as determined by either physical or economic measures, as appropriate) for similar control costs.

Because economic evaluation methodologies are not well agreed upon for all of the effects/benefits categories relevant to acidic deposition, NAPAP's comparative evaluation of control strategies recognizes three categories of benefits. Benefits in individual categories can be cross-compared for the various control strategies evaluated, but cannot be combined into a comprehensive dollar estimate of benefits. The categories are:

(1) Health related benefits—having special public policy importance;

(2) Economically evaluated benefits—including market estimates (e.g., productivity in commercial forests) and behavior base estimates (e.g., recreational use of lakes); and

(3) "Conservation benefits"—including preservation of remote lakes and mountaintop forests, for which economic evaluation methods are not well agreed upon.

12. Control Strategy Implications Resulting From the NAPAP's Effects and Technology Analyses:

The time scale for biological recovery of lakes and streams in the Northeast may be long in the Northeast so that little near

term benefit would be expected to result from rapid emission reduction. The time scale and importance of other effects (lakes and streams in other eastern regions, possible health effects, materials impact, forest response, visibility impacts) is still being evaluated. If the time scale of all significant effects is long, rapid imposition of controls will not result in significant near term benefits. This suggests that slower but less costly control strategies should be evaluated carefully. Specifically:

There is general agreement that moderate emission reductions (e.g., 3 to 5 million tons of SO_2) can be achieved within approximately five years by currently available technology. This includes coal substitution, coal cleaning. LIMB duct injection, and enhancements to existing scrubber technology.

LIMB technology has been demonstrated for wall-fired boilers and is attractive from a cost-effectiveness standpoint for control of SO_2 and NO_2 emissions.

Scrubber technology is continuing to advance with a focus on increased removal efficiency and reliability and/or reduced costs. The current technology is ready for implementation with known cost, performance and environmental impacts.

Clean Coal Technologies, including repowering and advanced energy conversion techniques, are being demonstrated. These technologies are potentially lower emitting and more cost effective than current technologies. The demonstration program will help develop these technologies as well as clarify their ultimate performance, cost, and penetration rates.

The Clean Coal Technologies (CCT) currently being demonstrated have several significant advantages compared to the current generation of flue gas desulfurization (scrubber) technologies:

Improved energy efficiency through greater kilowatt output per ton of fuel consumed (less CO_2 emissions and global climate impact).

Significant NO_2 emission reduction (30-50 percent in some cases) not achieved by current scrubbers.

More manageable wastes, compared to scrubber sludge.

Potential future export markets (coal and combustion technology) for the United States.

Wide deployment of CCT instead of scrubbers would require an extension of the deadline to achieve the full planned emission reduction beyond 2000 (i.e., to 2003-2005) unless a "crash program" of technology demonstrations is pursued.

13. Future NAPAP Assessment Reports on Benefits and Strategy Evaluation:

NAPAP will complete a large series of State-of-Science and State-of-Technology reviews, and an Integrated Assessment reporting on comparative evaluations of control strategy options, during the next 16 months. All NAPAP documents will have extensive review by U.S. and foreign scientists, and interest groups concerned with acid rain issues. These NAPAP reports will provide the following:

Credibility.—This is the most important scientific product of NAPAP's work. Reasonable national agreement on the major cause-effect relationships, and the effectiveness of the planned control strategy, is most important. NAPAP's extensive scientific and public review procedures address the need for credibility. The NAPAP International Conference on Acid Rain, scheduled for February 1990, will be the most visible part of the extensive review process.

Completion of scientific, technological and economic studies.—NAPAP will continue to provide decision-makers currently available information upon requst, for analysis of legislative options, while its several key cause-effect analyses and other studies are being completed.

Comparative evaluation of strategies.—These analyses will aid decision-makers in the evaluation of legislative options until a law is adopted, and will guide regulatory management in the years ahead.

H.R. 2273

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. CLEMENT. Mr. Speaker, I am so happy to see this momentous legislation finally come to the floor for a vote. It has been a long time coming—too long in my opinion—but it looks like the handicapped community is about to receive the same civil rights guarantees that the rest of us already take for granted.

Mr. Speaker, I have long been a cosponsor of H.R. 2273, the Americans With Disabilities Act, and feel that the rights and protections that it provides for the thousands of handicapped individuals amongst us is long overdue. Most of us do not know and, therefore, cannot empathize with the plight of the handicapped in our society. We do not know, for example, how it must feel to be unable to travel back and forth to work or school, how it must feel to be unable to get a drink of water because the fountain is too high, or to be unable to use a restroom because it is not properly equipped to accommodate a handicapped person.

Passage of the legislation before us will make life a little easier for those who already have it hard. It will make it easier for these people to function independently in a society that is always in a hurry and does not have time to lend a helping hand.

We have heard a lot of economic concerns in relation to this bill; about how much its going to cost a local government or a private company to abide by the regulations that the ADA will impose. Economic considerations are very real; I share them and I personally know the Public Works Committee, of which I am member—as well as the other committees of jurisdiction I am sure—has tried to be reasonable in terms of effective dates and phase-in requirements so as to ease the financial strain of meeting the ADA.

However, what we are talking about here is no less than civil rights guarantees for the handicapped. What we are talking about is the right to work, the right to travel, the right to be independent in America—the country that the world looks to for freedom and opportunity. After all, denying the handicapped the rights of the ADA because of financial considerations is akin to denying blacks the vote because it would cost a lot of money to register them and to establish more polling places to accommodate the additional voters.

The ADA is right, Mr. Speaker, and it is badly needed throughout America. I stand ready to fully support the intent of the bill and sincerely hope that it will help to ease some of the stress and burden in the lives of our handicapped.

LET US COMMEMORATE THOSE BRAVE CHINESE WHO HAVE SACRIFICED FOR HUMAN RIGHTS IN CHINA

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1990

Mr. FEIGHAN. Mr. Speaker, 1 year ago thousands of brave, youthful, Chinese peacefully demonstrated in Tiananmen Square in Beijing. Far from attempting to be disruptful, they wanted nothing more than to engage in dialogue with those who claimed to rule in the name of the people. The demonstrators wanted to offer their input into solving the corruption that permeates the Chinese leadership; they wanted to offer their support for reformist elements in that leadership. They merely expressed their desire that the leadership of their country be more responsive to the expressed needs of the people.

As we are so painfully aware, their peaceful and reasonable demands were met with a brutal and unconscionable reaction by the Chinese leadership. Hundreds were slaughtered; many thousands more were hunted down and arrested. Confessions and self-incriminations were extracted and the guilty were executed or thrown into prison, where many languish to this day.

I would like to draw attention to the case of Su Ding. Su is dean of the East-West Art Institute of the Sichuan Academy of Social Sciences and was arrested last August while trying to leave China to serve as a visiting scholar this year at Arizona State University. He was charged with having engaged in anti-party activities during the time of the Tiananmen Square demonstrations and with favorably recommending a book that was labeled "Anti-party." Su is beieved held incommunicado. I became aware of this case through the efforts of my distinguished colleagues, Mr. TED WEISS and Mr. JOHN MILLER who have initiated an "adopt-a-prisoner" crusade to draw attention to individual cases of repression in China. I urge my colleagues to join us in doing so.

Last week, the Human Rights, Asia and Pacific and International Economic Policy and Trade Subcommittees of the Foreign Affairs Committee heard testimony from many reputable sources concerning the current human rights situation in China. All agreed that in the year since the crackdown in Tiananmen Square, the situation has gotten worse. To now, the Chinese leadership has been unresponsive to United States efforts to encourage them to improve their human rights record. Now, Congress must increase the pressure on the leadership of China to do so.

Today we have before us House Resolution 393 and I commend my colleague Mr. GUS YATRON, for having introduced it. This resolution expresses the sympathy that all Americans feel for those Chinese who were murdered for daring to stand up for their beliefs. It expresses our support for those Chinese still

fearing reprisal for having expressed their yearning for democracy, and commends those who have incurred risk in continuing that struggle. This resolution calls on the Government of China to release those still imprisoned for their beliefs and to respect internationally accepted human rights now and in the future. I am an original cosponsor of this legislation, and I respectfully urge all my colleagues to join me in support of it.