SENATE—*Wednesday, May 13, 1987*

(Legislative day of Friday, May 8, 1987)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana.

PRAYER

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

Let us pray:

If my people which are called by My name, shall humble themselves and pray, and seek My face, and turn from their wicked ways then will I hear from heaven and will forgive their sin and heal their land.—II Chronicles 7:14.

Gracious God, Your word speaks plainly—so plainly to Your people, Your church, Your Synagogue. Help us to hear it. You speak to Your people, Lord, not their government. Give Your people ears to hear and obey. You promised to heal the land if Your people meet Your conditions.

Tragically, Heavenly Father, we who profess to be Your people are so predisposed to pass the buck. In the wisdom of one psychiatrist, we major in "scapegoating"—blaming everyone but ourselves. You speak to us and exhort us to "turn from our wicked ways * * *." Jesus warned us, "Judge not that ye be not judged. For with what judgment ye judge ye shall be judged: and with what measure ye mete, it shall be measured to you again."—Matthew 7:1-2.

How easily Lord, do we behold the "mote that is in our brother's eye and ignore the beam that is in our own eye."—Matthew 7:3.

Forgive us, gracious Father, for demanding of others that which we do not require of ourselves. In the name of the Righteous One, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

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

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

RESERVATION OF THE LEADERS' TIME

Mr. BYRD. Mr. President, I do not wish to take my time. If the distinguished Republican leader wishes to take his time, I will yield at this time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader.

Mr. DOLE. Mr. President, could I reserve my time?

Mr. BYRD. Mr. President, I ask unanimous consent that the distinguished Republican leader may reserve his time, and that I may also reserve mine.

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

ORDER OF BUSINESS

Mr. BYRD. Mr. President, I will take 1 minute of my time.

Mr. President, would the distinguished Republican leader be in a position to indicate to me as to whether or not he could give consent to proceed to the Defense Department authorization bill?

Mr. DOLE. Mr. President, I will say to the majority leader that I am not in a position to do that at this time. We have had, as I have indicated privately, a number of meetings on our side, and as recently as yesterday afternoon. But I cannot do it at this time.

Mr. BYRD. I thank the Republican leader.

Mr. President, all indications are that there will be a filibuster on the motion to proceed. I had hoped that it would not occur, and it does not yet need to occur. I would hope that we could get on the bill, and allow Senators who wish to debate that. That is their right. But I am going to set in motion my efforts to get the bill up.

If there is no indication to filibuster on the motion to proceed, and if that is readily evident, we can go on and get on the bill.

MOTION TO ADJOURN FOR 1 MINUTE

Mr. BYRD. Mr. President, I therefore ask unanimous consent that the Senate adjourn for 1 minute.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DOLE. Mr. President, I object.

Mr. BYRD. Mr. President, I move that the Senate adjourn for 1 minute, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia that the Senate adjourn for 1 minute. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. MCCLURE] and the Senator from New Hampshire [Mr. RUDMAN] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr. CONRAD], the Senator from Connecticut [Mr. DODD], the Senator from Nebraska [Mr. EXON], the Senator from Georgia [Mr. FOWLER], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

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

The result was announced—yeas 48, nays 44, as follows:

[Rollcall Vote No. 101 Leg.]

YEAS—48

Adams	Ford	Mikulski
Baucus	Glenn	Mitchell
Bentsen	Gore	Moynihan
Biden	Graham	Nunn
Bingaman	Harkin	Pell
Boren	Heflin	Proxmire
Bradley	Hollings	Pryor
Breaux	Inouye	Reid
Bumpers	Johnston	Riegle
Burdick	Kennedy	Rockefeller
Byrd	Kerry	Sanford
Chiles	Lautenberg	Sarbanes
Cranston	Leahy	Sasser
Daschle	Levin	Shelby
DeConcini	Melcher	Stennis
Dixon	Metzenbaum	Wirth

NAYS—44

Armstrong	Cochran	Dole
Bond	Cohen	Domenici
Boschwitz	D'Amato	Durenberger
Chafee	Danforth	Evans

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

91-059 O-89-39 (Pt. 9)

Garn	Kasten	Stafford
Gramm	Lugar	Specter
Grassley	McCain	Stevens
Hatch	McConnell	Symms
Hatfield	Murkowski	Thurmond
Hecht	Nickles	Trible
Heinz	Packwood	Wallop
Helms	Pressler	Warner
Humphrey	Quayle	Weicker
Karnes	Roth	Wilson
Kassebaum	Simpson	

NOT VOTING—8

Conrad	Fowler	Rudman
Dodd	Matsunaga	Simon
Exon	McClure	

So the motion to adjourn for 1 minute was agreed to.

ADJOURNMENT

The ACTING PRESIDENT pro tempore. The Senate stands in adjournment for 1 minute.

At 10:34 a.m. on Wednesday, May 13, 1987, the Senate adjourned until 10:35 a.m., the same day.

AFTER ADJOURNMENT

WEDNESDAY, MAY 13, 1987

The Senate met at 10:35 a.m., pursuant to adjournment, and was called to order by the Acting President pro tempore [Mr. BREAUX].

THE JOURNAL

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

Mr. DOLE. Mr. President, I object.

Mr. QUAYLE. Mr. President, the Senate is not in order.

The ACTING PRESIDENT pro tempore. The Chamber will please be in order.

MOTION TO APPROVE THE JOURNAL—VOTE NO. 102

Mr. BYRD. Mr. President, I move that the Journal be approved to date, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the majority leader. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The ACTING PRESIDENT pro tempore. Are there additional Senators in the Chamber who have not yet been recorded?

SENATOR WARNER DECLINES TO VOTE

Mr. WARNER. Mr. President, I decline to vote for the reason that I have not read the Journal.

Mr. DOLE. Regular order.

The ACTING PRESIDENT pro tempore. Are there additional Senators who desire to be recorded?

Mr. DOLE. Is the Chair aware of rule XII?

The ACTING PRESIDENT pro tempore. The Chair will state to the Senator from Virginia, the Senator may not decline to vote without leave granted and permission to do so.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON PERMISSION FOR SENATOR WARNER TO DECLINE TO VOTE—VOTE NO. 103

The ACTING PRESIDENT pro tempore. The question is: Is it permissible for the Senator to decline his right to vote on this issue? The yeas and nays have been ordered and the clerk will please call the roll on the question just presented by the Chair.

The legislative clerk called the roll.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

SENATOR QUAYLE DECLINES TO VOTE

Mr. QUAYLE. Mr. President, I decline to vote for the following reason: I do not believe a Senator should be compelled to vote.

The ACTING PRESIDENT pro tempore. The question is, Should the Senator be excused by the Senate from voting on this issue?

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The yeas and nays are requested.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON WHETHER SENATOR QUAYLE SHOULD BE EXCUSED FROM VOTING—VOTE NO. 104

The ACTING PRESIDENT pro tempore. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. WIRTH). Are there additional Senators in the Chamber who have not voted?

Mr. SYMMS. Mr. President——

The PRESIDING OFFICER. The Senator from Idaho.

SENATOR SYMMS DECLINES TO VOTE

Mr. SYMMS. Mr. President, I decline to vote for the following reason: I do not believe a Senator should be compelled to vote.

Mr. BYRD. Mr. President——

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. The majority leader.

SENATOR BYRD'S POINT OF ORDER THAT REQUEST OF SENATOR SYMMS IS FOR PURPOSE OF DELAY

Mr. BYRD. Mr. President, I make a point of order that the request of the Senator to be excused from voting is for the purpose of delaying the conclusion of the vote that the Journal be approved to date; that in amending rule IV, the Senate intended that a majority of the Senate could resolve the question of the reading of the Journal;

I make my point of order that a request of a Senator to be excused from voting on a motion to approve the Journal is, therefore, out of order and that the Chair proceed immediately, without further delay, to announce the vote on the motion to approve the Journal.

Mr. DOLE. Mr. President, the point of order is not in order during a vote.

The PRESIDING OFFICER. The point of order is not in order.

APPEAL OF RULING OF CHAIR

Mr. BYRD. Mr. President, I appeal the Chair's ruling.

Mr. DOLE. Mr. President, that is not in order, either.

Mr. BYRD. I ask for the yeas and nays.

Mr. DOLE. I ask for the yeas and nays on the question of the entitlement to vote.

The PRESIDING OFFICER. The question is on the appeal.

Mr. DOLE. The appeal is not in order.

Mr. BYRD. Regular order.

Mr. DOLE. Regular order, Mr. President. The appeal is not in order.

Mr. BYRD. I make a point of order that in this situation, in which there are obviously dilatory actions being taken to prevent a vote on the motion to approve the Journal, an appeal is in order.

Mr. DOLE. A point of order is not in order during a rollcall vote in progress. Members are standing to be recognized to vote. I ask for the yeas and nays on the issue of whether or not he may decline to vote.

The PRESIDING OFFICER. The Chair will first state that a point of order not being in order, an appeal therefore is not in order either.

Mr. BYRD. Mr. President, I appeal the ruling of the Chair.

Mr. DOLE. Mr. President, that is not in order.

Mr. BYRD. I appeal the ruling of the Chair.

Mr. DOLE. That is not in order. A point of order—that is not in order. The only thing in order is the request of the Senator from Idaho.

The PRESIDING OFFICER. The Chair has stated the point that an appeal is not in order.

Mr. DOLE. Regular order.

The PRESIDING OFFICER. Shall the Senator from Idaho be excused from voting?

Mr. DOLE. I ask for the yeas and nays.

Mr. BYRD. What is the question before the Senate?

The PRESIDING OFFICER. The question is, shall the Senator from Idaho be excused from voting?

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BYRD. Mr. President, what about my point of order?

The PRESIDING OFFICER. It has been stated that a point of order is not in order during a rollcall vote.

Mr. DOLE. Have the yeas and nays——

Mr. BYRD. Mr. President, a Senator has the right to appeal the ruling of the Chair.

The PRESIDING OFFICER. In the past, the Chair has ruled that an appeal will be denied only in the most extraordinary circumstances, and the Chair does not feel that these are extraordinary circumstances, and the Chair has stated that the point of order is not in order.

Mr. BYRD. Mr. President, I insist that these are extraordinary circumstances, and the Senate should vote on whether or not an appeal is in order under these circumstances.

Mr. DOLE. Regular order.

The PRESIDING OFFICER. An appeal should be precluded in these circumstances.

The question is, Shall the decision of the Chair stand that the point of order of the majority leader is not well taken?

Mr. DOLE. A point of order is not in order. I appeal the ruling of the Chair.

Mr. BYRD. What has the Chair ruled?

Mr. DOLE. Regular order, Mr. President.

APPEAL PRECLUDED—SHALL DECISION OF CHAIR STAND

The PRESIDING OFFICER. The Chair has stated that although under the precedents a point of order is not in order at this time, the right to appeal is a most valuable right and is not to be abridged except under the most extraordinary circumstances. The Chair does not believe that these qualify.

The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. DOLE. That is not in order.

Mr. BYRD. I ask for the yeas and nays.

SEVERAL SENATORS. Regular order.

The PRESIDING OFFICER. Is there a sufficient second?

SEVERAL SENATORS. Regular order.

The PRESIDING OFFICER. Is there a sufficient second for the motion made to appeal the ruling of the Chair?

Mr. DOLE. A point of order—that is not in order.

Mr. BYRD. Mr. President, first of all, can we have order in the Senate, so that Senators can hear what the Chair is saying?

The PRESIDING OFFICER. The point of order of the majority leader is well taken, and the Senate will be in order.

Mr. DOLE. Mr. President——

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Mr. President——

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. DOLE. Mr. President——

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. The Chair cannot put the question. We are in the process of a rollcall vote. There is absolutely no precedent for this. It is strict flounting of the rules. Either we are going to play by the rules or not play by the rules.

The only question is whether or not the Senator from Idaho can decline to vote. The yeas and nays have been ordered, and I demand the regular order.

Mr. BYRD. What is the question on which the Senate is about to vote?

The PRESIDING OFFICER. The question on which the Senate is about to vote is shall the opinion of the Chair be sustained by the full Senate.

Mr. BYRD. And the opinion of the Chair was what?

The PRESIDING OFFICER. And the opinion of the Chair was that the point of order is not in order.

Mr. BYRD. May we hear the Chair? What was——

The PRESIDING OFFICER. The opinion of the Chair was that the point of order is not in order during a rollcall vote. The Senate, therefore, is voting on the opinion of the Chair whether or not to sustain the ruling of the Chair as the ruling of the full Senate and on that issue the yeas and nays are ordered. They have not been ordered.

The Republican leader.

Mr. BYRD. Regular order.

Mr. DOLE. Is the appeal debatable?

The PRESIDING OFFICER. The appeal is not debatable.

Mr. BYRD. Mr. President, regular order in the Chair's ruling.

Mr. DOLE. Mr. President, is the quorum call in order?

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the full Senate?

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

Mr. BYRD. Mr. President, a quorum call is not in order on this.

Mr. DOLE. I appeal the ruling of the Chair.

Mr. STEVENS. I appeal the ruling of the Chair.

Mr. SYMMS. The yeas and nays are not ordered.

The PRESIDING OFFICER. Shall the decision of the Chair stand?

Mr. DOLE. Mr. President——

The PRESIDING OFFICER. All those in——

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

Mr. STEVENS. A quorum is in order before any vote.

QUORUM CALL NOT IN ORDER

The PRESIDING OFFICER. The quorum call is not in order.

APPEAL OF RULING OF CHAIR

Mr. DOLE. I appeal the ruling of the Chair and ask for the yeas and nays. I appeal the ruling of the Chair on denial of the quorum call and ask for the yeas and nays.

The PRESIDING OFFICER. The Republican leader has appealed the ruling of the Chair on whether or not a quorum call is in order at this time.

Is there a sufficient second?

Mr. BYRD. Would the Chair speak louder into the microphone? What is the Chair's ruling on the motion that has been made by the Republican leader?

The PRESIDING OFFICER. The Chair has held that the request for a quorum call during a rollcall vote was not in order.

Mr. DOLE. I appeal the ruling of the Chair.

The PRESIDING OFFICER. The Republican leader has appealed the ruling of the Chair.

Mr. DOLE. I ask for the yeas and nays.

Mr. BYRD. I move to table the—let us give the Republican leader the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second on the appeal.

The yeas and nays were ordered.

MOTION TO TABLE APPEAL—VOTE NO. 105

Mr. BYRD. Now I move to table the Republican leader's appeal.

The PRESIDING OFFICER. The Republican leader moved to appeal the ruling of the Chair.

Mr. DOLE. I suggest the absence of a quorum.

Mr. BYRD. That is the question that has to be decided right now.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. DOLE. I suggest the absence of a quorum.

Mr. BYRD. Call the roll.

Mr. DOLE. There has been no rollcall.

The PRESIDING OFFICER. The clerk will call the roll on the motion to table. The clerk will call the roll.

Mr. HUMPHREY. Dictatorship.

The legislative clerk called the roll.

(After the call of the roll, the following occurred:)

Mr. DOLE. Mr. President. Mr. President.

Mr. BYRD. Mr. President, I ask for the yeas and nays after—I ask for the yeas and nays on the opinion.

The PRESIDING OFFICER (Mr. FORD). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President.

The PRESIDING OFFICER. The Chair is in doubt as to whether to report the vote on the last vote or not, that he will——

SENATOR DOLE DECLINES TO VOTE

Mr. DOLE. Mr. President, I have not voted. Mr. President, I decline to vote for those reasons set out in the Senate rules as follows: I would like to state my reasons.

Mr. BYRD. Mr. President, I ask for the regular order. The question is as to whether or not we can proceed.

QUESTION RECURS ON APPEAL OF RULING THAT POINT OF ORDER IS NOT IN ORDER

The PRESIDING OFFICER. The question now recurs on the appeal of the majority leader that the ruling of the Chair that the point of order is not in order during a rollcall vote, and the yeas and nays have been ordered. The clerk will call the roll.

Mr. DOLE. Mr. President, point of order. Mr. President, point of order.

MOTION TO TABLE APPEAL OF RULING THAT POINT OF ORDER IS NOT IN ORDER—VOTE NO. 106

Mr. WALLOP. Mr. President, I move to table.

Mr. DOLE. I move to table, and ask for the yeas and nays.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas to lay on the table the appeal of the majority leader of the ruling of the Chair that the point of order is not in order. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. WALLOP. Mr. President, how am I recorded?

The PRESIDING OFFICER. The Senator is recorded as voting "yea."

Mr. WALLOP. Mr. President, I vote "nay."

Mr. QUAYLE. Mr. President, on vote No. 103, I withheld my vote. I would like to be recorded in the affirmative.

Mr. WARNER. Mr. President, on vote 102 I withheld my vote. I should like to be recorded as voting no.

Mr. BYRD. Regular order, Mr. President.

Mr. DOLE addressed the Chair.

SENATOR DOLE'S REASONS FOR NOT VOTING

Mr. DOLE. Mr. President, I was prevented from stating my reasons for not voting in the last vote in violation of rule XII which I will now state by declining to vote on this vote.

Mr. BYRD. Regular order, Mr. President.

Mr. DOLE addressed the Chair.

Mr. BYRD. Regular order.

The PRESIDING OFFICER. Regular order.

Mr. DOLE. Mr. President:

When a Senator declines to vote on call of his name, he shall be required to assign his reasons therefor, and having assigned them, the Presiding Officer shall submit the question to the Senate: "Shall the Senator for the reasons assigned by him, be excused from voting?" which shall be decided without debate; and these proceedings shall be had after the rollcall and before the result is announced; and any further proceedings in reference thereto shall be after such announcement.

A Member, notwithstanding any other provisions of this rule, may decline to vote, in committee or on the floor, on any matter when he believes that his voting on such a matter would be a conflict of interest.

No request by a Senator for unanimous consent for the taking of a final vote on a specified date upon the passage of a bill or joint resolution shall be submitted to the Senate for agreement thereto until after a quorum call ordered for the purpose by the Presiding Officer, it shall be disclosed that a quorum of the Senate is present; and when a unanimous consent is thus given the same shall operate as the order of the Senate, but any unanimous consent may be revoked by another unanimous consent granted in the manner prescribed above upon one day's notice.

Then moving on to the rule because we are talking about the rules——

Mr. BYRD. I ask for the regular order.

Mr. DOLE. We are talking about the rules that are being violated.

Mr. BYRD. The Republican leader is talking about the rules of the Senate. What is involved here is paragraph 2 of rule XII of the Senate.

Mr. DOLE. Mr. President, I am talking about the rules of the Senate.

Mr. BYRD. The leader has already read that. I ask for the regular order.

Mr. DOLE. Mr. President, I continue to state my reasons for declining to vote.

The PRESIDING OFFICER. I would say to the distinguished minority leader we are trying to vote on this one, too, this particular rollcall.

Mr. DOLE. But I have been recognized to vote. I decline to vote. I want to state my reasons. My reasons are the rules of the Senate, what is left of the rules of the Senate, and I think everybody ought to hear the rules of the Senate so I will continue to read my reasons for declining to vote.

Mr. BYRD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The Senator has stated his reasons, and therefore regular order—

Mr. DOLE. I have not stated my reasons.

Mr. BYRD. I ask for the regular order. This could go on all day.

Mr. DOLE. It may go on all day.

The PRESIDING OFFICER. Regular order.

Mr. DOLE. Mr. President, "When a question has been decided by the Senate"—

Mr. BYRD. Mr. President, I ask the Chair to call the roll.

Mr. DOLE. "Any Senator voting from the prevailing side or who has not voted may, on the same day or on either of the next 2 days of actual session"—

The PRESIDING OFFICER. The Senator puts the Chair in a very embarrassing situation. I wish he would allow me to make a ruling and try to bring order to the Senate. I am trying to operate this Chair in the best manner I know. I know the conflict that is going on. There is an opportunity here for regular order. We will have plenty of time to debate the rules of the Senate. The clerk will proceed.

The assistant legislative clerk continued with the call of the roll.

Mr. DOLE. Mr. President, is the Chair stating I cannot state my reasons for declining to vote?

The PRESIDING OFFICER. The Chair indicated to the distinguished minority leader that he had stated his reasons and therefore we went to the regular order.

Mr. DOLE. That is not the prerogative of the Chair. Is the Chair ruling that I cannot state my reasons for declining to vote because if he is, then I want to appeal that ruling of the Chair.

The PRESIDING OFFICER. I would say to the distinguished minority leader the question now is on the appeal of the point of order during a rollcall vote so the point of order is already a question and the Chair would have to say that the minority leader's position is not the order of the Senate now. We should go to the question on a point of order as we now have it before the Senate.

Mr. DOLE. But I declined to vote on the last vote. I was denied the opportunity to state my reasons for declining. I raise that point now, and if the Chair rules it is not in order, then I want to appeal the ruling of the Chair. If not, then I want to state my reasons because I think we are talking about the Senate rules, and the Senate rules are rather lengthy.

The PRESIDING OFFICER. Well, the Senator has made his point, and the Chair then will rule.

Mr. DOLE. But the Chair has to make a ruling or permit me to proceed.

Mr. BYRD. Mr. President, I ask for the regular order. The Senator has stated his reasons for not voting.

The PRESIDING OFFICER. The Chair has given the Senator from Kansas adequate time to state his reasons.

Mr. DOLE. Mr. President, I have still not voted and decline to vote and let me state my reasons for not voting.

The PRESIDING OFFICER. The Senator has already done that. He has had adequate time to do that. He

could stand there and read the rest of the rules. We only have 7 more minutes and a rollcall is in progress.

Mr. DOLE. Mr. President, respectfully—and I do not want to get in a quarrel with the Chair——

The PRESIDING OFFICER. I do not want to get in a quarrel with the Senator from Kansas either.

Mr. DOLE. If the Senator will just rule that I am out of order, then I can appeal the ruling of the Chair. If not, there is nothing in this rule that says I have to take 1 minute or 30 minutes or a day and a half on stating my reasons for declining to vote. It is not in the rule. And there is precedent for this in 1952. I am not trying to remake the rules, as some are. I am just trying to follow the rules. Either we are going to have rules or we are not going to have rules. If the Chair will rule I am out of order, then I will appeal the ruling of the Chair.

The PRESIDING OFFICER. The Chair is walking a fine line.

Mr. DOLE. So is the Senator from Kansas but——

SENATOR DOLE RULED OUT OF ORDER

The PRESIDING OFFICER. It is the opinion of the Chair and the ruling of the Chair that you cannot go on forever stating your reasons for not voting, and therefore the Chair would rule that you are out of order.

APPEAL OF RULING OF CHAIR—VOTE NO. 107

Mr. DOLE. I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 55, nays 45, as follows:

[Rollcall Vote No. 107 Leg.]

YEAS—55

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

NAYS—45

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

The PRESIDING OFFICER. On this vote, we have 55 yeas, 45 nays, and the decision of the Chair is sustained.

VOTE NO. 105—SENATOR BYRD'S MOTION TO TABLE APPEAL OF RULING THAT QUORUM CALL IS NOT IN ORDER

The PRESIDING OFFICER. On rollcall vote No. 105, the yeas are 54, the nays are 46, and the motion to table the appeal of the ruling of the Chair is sustained.

(The rollcall is as follows:)

[Rollcall Vote No. 105 Leg.]

YEAS—54

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

NAYS—46

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

VOTE NO. 106—SENATOR DOLE'S MOTION TO TABLE APPEAL THAT POINT OF ORDER IS NOT IN ORDER

The PRESIDING OFFICER. On rollcall vote No. 106, the yeas are 46, the nays are 54, and the motion to table is not agreed to.

(The rollcall is as follows:)

[Rollcall Vote No. 106 Leg.]

YEAS—46

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

NAYS—54

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

VOTE NO. 108—APPEAL OF RULING OF CHAIR THAT A POINT OF ORDER IS NOT IN ORDER DURING ROLLCALL VOTE

The PRESIDING OFFICER. The question recurs on the appeal of the ruling of the Chair that a point of order is not in order during a rollcall vote. The yeas and nays have been ordered and the clerk will call the roll.

Mr. DOLE. Mr. President, I understand the appeal is not debatable, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, a further inquiry: following the vote, I assume that we could indicate whether or not this is limited or just what precedent we may be stating?

The PRESIDING OFFICER. The Senator is correct.

The question is, Shall the decision of the Chair stand as the judgment of the Senate. The yeas and nays have been ordered and the clerk will call the roll.

Mr. BYRD. Mr. President, is this on my appeal of the ruling of the Chair?

The PRESIDING OFFICER. This is on the Senator's appeal of the ruling of the Chair that a point of order is not in order on a rollcall vote.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

[Rollcall Vote No. 108]

YEAS—46

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

NAYS—54

Adams	Conrad	Harkin
Baucus	Cranston	Heflin
Bentsen	Daschle	Hollings
Biden	DeConcini	Inouye
Bingaman	Dixon	Johnston
Boren	Dodd	Kennedy
Bradley	Exon	Kerry
Breaux	Ford	Lautenberg
Bumpers	Fowler	Leahy
Burdick	Glenn	Levin
Byrd	Gore	Matsunaga
Chiles	Graham	Melcher

Metzenbaum	Proxmire	Sarbanes
Mikulski	Pryor	Sasser
Mitchell	Reid	Shelby
Moynihan	Riegle	Simon
Nunn	Rockefeller	Stennis
Pell	Sanford	Wirth

The PRESIDING OFFICER (Mr. FOWLER). The yeas are 46, the nays 54, as a result, the decision of the Chair shall not stand as the judgment of the Senate and under these circumstances a point of order is in order.

Mr. BYRD. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, does the Chair have any further announcement?

The PRESIDING OFFICER. The Chair would like to rule now on the original point of order. It is the opinion of the Chair that the Senate, in amending rule IV, when it adopted rule IV—that was Senate Resolution 28, 99th Congress—intended that a majority of the Senate had the right to vote without delay on a motion to approve the Journal. The Chair, therefore, rules that a Senator may not decline to vote on the motion to approve the Journal when it is done for the purpose of delaying the announcement of that vote.

The Chair will now announce the result of rollcall vote 104.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Republican leader, Mr. SIMPSON.

Mr. SIMPSON. I would inquire of the majority leader whether that ruling of the Chair had been communicated, even though it need not have been, to the minority leader before his absence from the Chamber, whether that ruling of the Chair was to be done at that moment?

Mr. BYRD. I think the Republican leader understood that, when the Senate voted as it did, the Chair would proceed to, in accordance with the actions of the Senate by direction of the Senate, make these statements. I am sure the Republican leader is not unaware of that.

Mr. SIMPSON. Mr. President, in other words, that there would be a resume of the rulings; is that what the majority leader is saying?

Mr. BYRD. The Chair is attempting to clarify for the legislative record, the actions of the Senate.

Mr. SIMPSON. Mr. President, does an appeal of this ruling need to be made at this time or can it be later made?

The PRESIDING OFFICER. The appeal of this ruling of the Chair would have to be made at this time. Under the rules, the appeal cannot be made after subsequent business would intervene.

Mr. SIMPSON. I believe, Mr. President, we ruled on the issue of voting or proceeding during the period of a rollcall vote to appeal the Chair, and not on the issue of declining to vote when we dealt with that.

Mr. BYRD. Mr. President, that is what the Senate just decided.

The PRESIDING OFFICER. I am sorry, the Chair did not hear the majority leader.

Mr. BYRD. The Senate has decided this matter. I am surprised the Chair is now saying that this can be appealed all over again. I thought the Senate established its decision on this very thing.

The PRESIDING OFFICER. Let the Chair ask a clarification. What the Chair has done, it has announced the decision of the last vote, which dealt with the question of points of order in the midst of a rollcall. The Senate just decided that the decision of the Chair would not stand, but that under those circumstances a point of order was in order.

To state it in the converse—and I ask for the Parliamentarian's careful listening—a point of order would lie in the middle of a rollcall. That was ruling No. 1—on this particular rollcall vote. That was ruling No. 1. Ruling No. 2 had to do with the question of delaying a motion to approve the Journal.

Now, which, the Chair is inquiring of the Republican leader, Mr. SIMPSON, of his requests for a motion does it lie to, the opinion No. 1 or the second opinion?

Mr. SIMPSON. Mr. President, it would be toward the latter. But as I heard the expressed ruling of the Chair, it was with regard to something about declining to vote, and that was not what was before the body, or at least had not gone through the rulings process.

The PRESIDING OFFICER. The Chair will be glad to repeat one more time this ruling as to whether the Republican leader can make any request he deems timely.

The Chair has ruled that when a Senator refuses to vote, it is up to the body, the body of the Senate, to determine whether or not that individual Senator will be excused from voting, and that is what has now been determined in the proceedings.

Mr. BYRD. But only with reference to the circumstances in which the Senate was trying to reach a vote on the motion to approve the Journal. The point of order was confined to that situation.

The PRESIDING OFFICER. That is the ruling of the Chair and was in the initial ruling of the Chair.

Mr. SIMPSON. Mr. President, I am not trying to be difficult; I really am not. What is the difference, then, between that vote and any other vote in this situation? I mean, you are trying to limit it to this, but what is the difference between that and any other rollcall vote?

The PRESIDING OFFICER. The Chair would respond to the inquiry that Senators under our rules would have the right to decline to vote under any other circumstances, subject to the decision of the body as to whether or not—not relating to a vote on the motion to approve the Journal.

Mr. SIMPSON. I say, Mr. President, with all deference, that I do not see how the Chair will ever be able to determine the differentiation of the substance of a vote—what are "good votes," what are votes to be commented on, votes that the ruling applies to, votes that the ruling does not apply to. We come here and we vote on a rollcall vote, and I do not see how anything can be isolated to a certain type of rollcall vote. I think that is a very extraordinary commentary and precedent.

Mr. BYRD. Mr. President, if the distinguished Senator will yield, maybe I can be helpful.

We have to go back to the point of order that was made. The point of order speaks for itself. That is what we are talking about, not just any situation.

The point of order was as follows: "I make a point of order that the request of the Senator is made for the purpose of delaying the conclusion of the vote that the Journal be approved to date."

Without reading the rest of the point of order, that sets the situation into focus. Where Senators decline to vote on other rollcall votes in other situations—this point of order does not go to those. This point of order only goes to the unusual situation, the extraordinary circumstances, in which the Senate found itself today, when it was trying to act on a motion to approve the Journal to date, and when three Senators in succession stood to say, "Mr. President, I decline to vote on this rollcall for the following reason." They did not all do it en bloc. One Senator declined, and we had a rollcall vote as to whether or not he should be required to vote.

Before that vote could be announced, another Senator stood up and said, "I decline to vote on this rollcall because I do not think we have to make a Senator state his reasons," and we had another rollcall.

Then, before the Chair could announce the outcome of that rollcall vote, another Senator—Mr. SYMMS, I believe it was—stood and said, "Mr. President, I decline to cast my vote on this for the reason that I do not believe a Senator should be required to state his reasons."

So you had three Senators in succession declining to vote on the motion to approve the Journal. Obviously, these were dilatory tactics.

For this reason, then, I made a point of order, because I felt that the Senate ought to get on with approving the Journal. My ultimate purpose was to make a motion during that very little, narrow window of time which occurs during the first two hours on a new legislative day, when, if a motion is made in that very little, narrow window of time, that motion is not debatable. I wanted to get to the defense authorization bill without a filibuster on the motion to proceed.

Really, the basic here is not so much the procedural side. I had understood that there was going to be a filibuster of the Department of Defense authorization bill, and that there was going to be a filibuster also on the motion to just take the bill up. Of course, we see now that it was very obvious that there was a filibuster on the motion to take it up.

So, those who oppose the motion to take it up won, because they succeeded in running out the 2 hours. So that I no longer have that little window now on this new legislative day in which to make a nondebatable motion to take up that defense authorization. They have succeeded in that for today.

Now I can make the motion to proceed but it is debatable, and we can debate the rest of the day.

The point here is that I was trying to get to a little window in which to make a nondebatable motion to take up the defense authorization. The way to obstruct that was for Senators to chew that time up, run out that 2 hours, before I could make my motion, and they succeeded.

One Senator declines to vote and a vote is had on whether he may do so. The rollcall takes at least 15 minutes; and then another Senator gets up and declines to vote, and the Senate has to decide whether he may decline to vote, and there is another rollcall vote.

Then another Senator gets up and declines to vote, and then there is another rollcall vote, under paragraph 2, rule XII.

So it is under this particular set of extraordinary circumstances we found ourselves, because we do not have all this hassle over reading the Journal, except on these occasions when the leader is trying to get to some business, and the object is to keep him from getting to that business on a nondebatable motion.

In this way there can be two filibusters, a filibuster on the motion to proceed and a filibuster on the bill itself.

So for the legislative history, the point of order is confined only to that situation in which the Senate is trying to complete a vote on a motion to approve the Journal to date. That and only that is the situation to which this point of order addresses itself. This does not impact on paragraph 2 of rule XII except in the situation where the Senate is trying to get to a vote on the motion to approve the Journal to date and it becomes obvious that the Senators who are declining to vote are simply trying to delay the vote. The point of order is clear on that.

It is confined to that very narrow purpose. The distinguished assistant Republican leader is performing a service in trying to get a clarification of this matter as legislative history so that we can be sure that the impact of the ruling will not address itself to situations which are other than the one I have described.

Mr. SIMPSON. Mr. President, having been in the role of assistant majority leader at one time—eminently more fun that the role of being assistant minority leader—I remember the terrible frustration of the filibuster of the motion to proceed, best described as something that would just drive you goofy as these people would come and begin to filibuster the motion to proceed they had a second shot at it and the best shot at it is when you got to the actual action on the bill.

So I have no problem with understanding the frustration of trying to abort that, trying to get around the filibuster and knowing it was coming and will come on the motion to proceed because of an amendment in that bill. We all know what we are doing here. I am sure it looks to the public as if it is great fun and games. It is not. It is a reality of trying to get to an amendment which is very troubling to people on the arms control issue, the Levin-Nunn amendment. That is what we are doing. Some like that. Some do not.

I do not want to ever get in a parliamentary tangle with the Senator from West Virginia, because I will lose, and I have the deepest respect for him. There is no one that knows procedure more skillfully and more adroitly than the senior Senator from West Virginia.

Here is my question. It really is one that I express quite honestly. I can understand the ruling on points of order during the rollcall but the second ruling whether it is blended in or whether it is worked in or hoveled in, I do not understand when we get to the issue of the Senator who declines to vote, because I do not believe that there has been a ruling of the Chair on the second point. There has been a ruling of the Chair on points of order during the rollcall and that was appealed and that was settled, and that is that.

But whether a Senator may decline to vote in my mind has not been settled and that is the question I am asking. If it is not, then we should ask for a vote on the Chair's ruling and then have things in order unless I miss something in the process.

I guess the other thing I would like to ask is under the decision, and I am not trying to sharpshoot—I am trying to make an orderly procedure because this can be very disruptive. At some point in time in the future you can be in the minority again, and I remembered that always when I was in the majority, a very important part of legislative life. So I think that you do not want to leave us with something that is going to disrupt every rollcall vote from now on.

The sacrosanctness of a rollcall vote is very obvious in any parliament. In fact, in most parliaments the rules say you cannot interrupt a rollcall vote under any circumstances whatsoever and I think it says that here, but there are certain exemptions.

But under the decision of the Senate to overturn the ruling of the Chair, are points of order in order during any rollcall vote? I think that is a very critical issue to present to any legislative body and, if that is the truth, there is going to be a long day's journey into night for anyone who is either in the majority or the minority. It just depends if you are on the side that is not the one with the horses. So that is one issue.

But the other issue is definitely whether we need to appeal this ruling with regard to the declination to vote.

The PRESIDING OFFICER. If the Chair may respond to the specific inquiry of the Senator from Wyoming, the Chair has reviewed its ruling and it is specific. It is limited. The ruling is that a Senator may not decline to vote on a motion to approve the Journal when it is done for the purpose of delaying the announcement of a vote. That is the ruling of the Chair. It is specific and it is limited under this ruling to that opinion.

Mr. BYRD. Mr. President, I only read part of my point of order. I see now I should have read the remainder of it and the Chair has stated it.

I went on to say: I make my point of order that a request of the Senator to be excused from voting on this motion to approve the Journal is therefore out of order and that the Chair proceed immediately and without further delay to announce the vote on the motion to approve the Journal.

Mr. SIMPSON. Mr. President, that ruling has not been appealed. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. And it certainly has less weight as a precedent if it has not gone through a vote on the motion to appeal the ruling of the Chair. Is that not right?

The PRESIDING OFFICER. That is the Senator's interpretation.

Mr. SIMPSON. May I yield to my friend from Alaska who has a fine parliamentary background and I know he has a comment with regard to this if I may do that.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I feel constrained to say that my good friend, and he is my very good friend, from West Virginia, in seeking to limit the impact of the ruling that has just been made, has failed to really address the point that the Senate has just violated its own rules repeatedly. The impact of the ruling of the Chair on items that exceeded the authority of the Senate in the first place, cannot now be turned into a precedent that would guide future conduct in this body.

The rules are very specific. I do not think that it is possible to have anything interrupt a rollcall vote except a Senator who uses his right under the rule to decline to vote and then states his reasons for so doing.

The rules are defective, I might add, because they do not limit the amount of time that a Senator can take in stating his reasons, and there is no precedent on that yet. I doubt that we will write into the rules a limitation on a Senator's right to state his reasons.

I understand full well that my good friend would like to have that precedent established by a procedure similar to what we have just gone through, because the difficulty of proceeding to legislation must be extremely frustrating. The Senator from West Virginia knows that I am one who has sought to change the rules, and made specific proposals to do so, so that there would be a limitation on debate on a motion to proceed and we would not have the problem of the leader having to resort to the morning hour procedure in order to get a bill before the Senate that he wishes to bring up.

Now we have talked at length in years gone by about this, and I have made that specific proposal to the Rules Committee. I put it before the body several times in the form of a proposed rules change. But right now I think the Senate is treading dangerously close to trying to change the rules with regard to what can take place during a rollcall.

In my judgment, as I said, nothing can interrupt a rollcall, and I do not take anything that we have done today to have established a precedent that would change the rules to that effect. As I said, and respectfully I said to all of us, we violated our own rules.

The procedure that was being followed, incidentally, was a legitimate procedure under the rules, as I understand them, for a Senator to decline to vote and state his reasons as the Senator from Virginia did. The Chair followed the normal procedure stating that it then became an issue to vote upon and unfortunately whether we like it or not, the rules make it a way to, in effect, delay a leader from getting to a motion to proceed during the morning hour.

I would urge my good friend from West Virginia to consider the problem that we are going to face if we now try to change that basic rule that nothing should interrupt a rollcall in order to use this procedure now to establish a precedent. Because if that is the case, there will be similar attempts in the future, not in the morning hour, to interrupt rollcalls.

That is what worries me most about what we have just done. I do not think we can limit the precedents of the Senate now to the interruption by a Senator of a rollcall to state he did not wish to vote and his reasons for not voting. That can occur at times other than the morning hour. And we are going to be off to the races on filibusters if that happens.

Mr. WARNER. Mr. President, if I could ask the Senator a question.

Mr. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Chair is entertaining a parliamentary inquiry by the Senator from Wyoming. And, as the Senator from West Virginia and the Senator from Wyoming know, under the rules, no debate is in order during a parliamentary inquiry.

Mr. STEVENS. I may have overstepped those bounds myself. I asked the Senator from Wyoming to state my reasons for urging the Senate to go slow now in trying to establish a precedent from what we have just done.

I thank the Chair.

Mr. WARNER. Mr. President, my observation would not be in the nature of a dilatory one, but I think it would be important. The Senator from Alaska, if I might get his attention, said that nothing should interrupt a rollcall vote, but we still have to resolve the issue. There is a right for a Senator to get up and say he wishes to withhold his vote for certain reasons. What is the period of time that he can absorb in stating those reasons and at what point does that period of time become, in your judgment, an interruption of the rollcall vote? I think that is a subsidiary question you have to address.

Mr. SIMPSON. You have been very gracious, Mr. Leader. I appreciate your willingness to allow Senator STEVENS and Senator WARNER to speak briefly.

I will conclude now. I do not want to take that to a higher precedence status. But I would say this: Under rule XII, I think that we should revisit that and set perhaps some limitation. But the important thing of rule XII—and I share this with the majority leader, who knows these rules by heart—it says in rule XII:

> No motion to suspend this rule shall be in order, nor shall the Presiding Officer entertain any request to suspend it by unanimous consent.

So what we have effectively done, what the precedent is achieving, is that any time a Senator is exercising his rights under the rules and the majority can vote by a simple majority that the exercise of those rights is dilatory because it is contrary to the inentions of the majority, then a minority member can be prevented by that simple majority vote from exercising his rights. And I think that that is a very unfortunate mistake, regardless of what party you are in, regardless of who is in the majority or minority. Those are some things that we must address.

You cannot leave the phrase "what is dilatory?" up to the definition of the majority who are crashing ahead through the underbrush. That cannot be done. The rule does not say this precedent, but if the precedent is that definition of dilatory is left to the majority, a great right of the minority on an issue, not by party, is trampled and indeed we are lessened.

I thank the Chair.

Mr. BYRD. Did you get an answer from the Parliamentarian?

Mr. SIMPSON. I do not think I want to go any further.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I want to be careful how I say this, because I do not want to be misunderstood.

The PRESIDING OFFICER. Would the majority leader withhold for just a moment?

Mr. BYRD. Yes.

The PRESIDING OFFICER. During our period of extended discussion, we have had an opportunity for some scholarly research that may or may not help answer some of the questions raised on all sides.

Apparently, as a matter of precedence, on January 29, 1915, a point of order was entertained that a Senator had exceeded his rights in giving his reasons for declining to vote.

The majority leader.

Mr. BYRD. Mr. President, I often consider, in amusement, the explosion of interest in the arcane and esoteric rules and precedents of the Senate that occurs only when a situation such as we have seen occur today arises. Suddenly there are many, many experts in the rules and precedents when a situation such as this arises.

On the other hand, contrary to all the plaudits that are often expressed concerning my knowledge of the rules, while I accept all those plaudits with considerable humility, I do not always believe everything Senators say about me, because I have to know—having studied the rules and precedents over the past 21 years, inasmuch as I did the floor work on the Senate floor for Mr. Mansfield, my predecessor, as well as myself; and he would be the first to say that—it is not all that true. I also can learn and do learn and have lots

yet to learn about the rules and precedents.

But it is somewhat amazing that, when a situation like this arises, there are a plethora of Senators and staff people around here who never, or probably never, otherwise bother to open the rule book—and they are busy with other things; I do not find fault with that—but everybody suddenly becomes an expert on the rules.

These matters, when they arise, are a concern to other Senators as much as they are to this one. And I know the Senators on the other side have the expert advice of the Parliamentarian Emeritus, and he was a good Parliamentarian.

Senators have expressed concern about how this particular ruling might some day be extrapolated and expanded and used in situations other than when attempting to enter a nondebatable motion, and one has to get by the approval of the Journal. I am as concerned about the maintenance of the rules and maintenance of order around here as is anybody. I am not going to sit supinely by impervious to the emasculation of the rules in that fashion.

But I hope that this discussion will not go on at this time too much longer, because I also hope we can get on with debate on the motion to proceed to take up the defense bill. That is what the people want to hear. They want to hear the debate on the defense bill.

I hope that Senators will understand, while they implore me and importune me to respect and protect the rules, I hope they will also understand that they likewise have a responsibility. It is not the responsibility just of the majority leader to move the program forward and get the Senate's business done. It is somewhat the responsibility of everybody else as well.

We have spent a whole morning and part of the afternoon now in the exercise of my trying to get to a nondebatable motion to take up the defense authorization bill.

I think it should be obvious to everybody that what was going on here was an effort to keep the majority leader from making a nondebatable motion to take up the defense authorization bill. If I had succeeded in doing so, Senators would still have had the opportunity to filibuster the bill once it is up—or talk about it, debate it, and amend it to their hearts' content unless or until such time as the Senate votes to invoke cloture.

I hope that Senators will not put me to the rack too mercilessly. I have a responsibility to try to get on with the business of the Senate. And it it is not my fault if Senators are, by their dilatory motions and their dilatory actions, forcing me to make points of order which have the effect of setting strict precedents. I did not come here this morning wanting to establish new precedents. I came here this morning wanting to call up the defense bill.

If Senators drive me to the wall in my effort to carry out my responsibility to get a bill up, they can expect points of order to be made. The American people want to hear the debate on this defense authorization bill. I assume the President wants this defense authorization bill. Had only one Senator stood up and declined to vote, I would not have made a point of order. But it happened a second time. We had two rollcalls, and then we had a third Senator stand up who declined to vote. When it gets to that point it just has to be an extraordinary situation. These are obviously dilatory actions.

Who among these 100 Senators has bothered to read the Journal of proceedings one time in the last 10 years? One. I may be going out on a limb in daresaying that another Senator has not. Perhaps another Senator has. But to come in here and say "I decline to vote because I have not read the Journal," that is going a bit far. I would, however, have let that go. But when a second Senator says, "I decline to vote because I do not think I should have to vote to make the first Senator explain his reason for not voting," the purpose becomes a little obvious as being dilatory. When it happens a third time, the majority leader is driven to make a point of order to put a stop to the delaying tactics. So I hope that as Senators in their own consciences attempt to exculpate themselves from blame in this, they just stand back and see what they have done. If they are concerned so much about the rules and precedents in the Senate, then perhaps they should also exercise restraint in the effort to prevent the Senate from taking up a bill.

Mr. President, the following precedents were established today:

First, a point of order may be made during a rollcall vote on, or subsumed by a vote on, a motion to approve the Journal that repeated requests by Senators to be excused from voting on any such vote is out of order as dilatory.

Second, repeated requests by Senators to be excused from voting on a vote on, or subsumed by a vote on, a motion to approve the Journal, when they are obviously done for the purpose of delaying the announcement of the vote on the motion to approve the Journal, are out of order.

Third, a Senator has a limited right to explain his reasons for declining to vote, but may not go on "forever" stating his reasons for not voting.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I cannot tell you how richly I hear what the majority leader is saying. I have been right here at this post pleading across the aisle, and he has always tried to assist, saying "why can you not allow us to get through the motion to proceed and on to the bill?" Well, I would like to help you do that. But we have people on our side of the aisle who are going to prevent that. And they do. And they will. That is the way it is.

We have had some significant meetings on that issue with regard to the motion to proceed, whether we can break through that. And I regret it is a bit sad to watch when we have these two superb people, the former Parliamentarian, Bob Dove, and the present Parliamentarian, Alan Frumin, going through "the dueling banjo" routine. That is really tedious to watch. But it comes from a knowledge that we have to be ready for those kinds of things. And that is the way it is. I wish that were not the case. There are those of us on this side of the aisle who do not profess to be parliamentarians. We are a little sloppy in our work, perhaps. I do not profess to be a parliamentarian. I am like the person who had the operation on his hand and when he finished, he said to the doctor, "Will I be able to play the piano?" The doctor said, "Yes." And the patient said, "Great; I've never played it before!" [Laughter.]

That is the way with me and the rules. But I have learned a lot here today. Everything we did was within the rules. I do not want anybody to miss what happened here today. Everything that was done by this minority was within the rules—everything. That is so very important to recognize. And the reason for it, as the majority leader wants to get to this bill, is so the American people can protect themselves and have a military budget. There are people on our side of the aisle who say the reason we do not want to get to this bill is because the President does not want this defense bill. It ties his hands in Geneva. There is an amendment in this bill which to some of us it is felt so clearly and completely ties our hands in Geneva that we will make no more progress toward arms control for this country this year. Those are pretty heavy stakes.

I do not know how you can say that any more clearly. That is why we are using the rules to the best of our abilities, and scrapping hard to do that. While we make notable, visible progress in Geneva, this amendment could slow that, and that is why we are dealing as we are dealing.

So let the American people know that, too. There is a reason for everything around here, but then there is usually a real reason, and it is often very difficult to get to that.

But I would just share this conclusion with you: If—impatience and frustration are to be the twin hammers

that forge legislation, if that is the way it is to be—instead of using rules and precedents, it will never work. And I know about frustration and impatience because I have been right here gnashing my teeth to the gums watching it. But the system still works. And everything we were doing today was fully within those rules, and I think that is a very important thing for the American people to know. We know it here. Nobody knows it better than these people in this Chamber right now.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. I do not think the American people are very concerned about the rules of the Senate; not so much concerned as we are. I want to get on with the debate on the matter that is of importance to the people of this country—the defense authorization bill. Instead, we are just going around and around the mulberry bush here. I am happy to indulge in it and to engage in it. But I would like at some point very soon to be able to make the motion to proceed to take up the defense authorization bill so that the Senate can debate the bill and the language that the President objects to.

If the distinguished assistant Republican leader wishes to make any motions or anything, I will yield the floor. But if he is not, I would like to make a motion to proceed with the consideration of the authorization bill on the Department of Defense, and that is a debatable motion.

Mr. SIMPSON. Mr. President, may I inquire of the Chair whether the Chair announced the results of the rollcall vote on the motion to approve the Journal?

The PRESIDING OFFICER (Mr. HARKIN). No. The Chair must announce the result of the three rollcall votes.

VOTE NO. 104—WHETHER SENATOR QUAYLE MAY BE EXCUSED FROM VOTING

The PRESIDING OFFICER. The Chair will announce the result of rollcall vote No. 104. On rollcall vote No. 104, there were 44 yeas, and 56 nays. The Senator from Indiana may not decline to vote.

(The rollcall is as follows:)

[Rollcall Vote No. 104 Leg.]

YEAS—44

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

NAYS—56

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

VOTE NO. 103—WHETHER SENATOR WARNER MAY DECLINE TO VOTE

The PRESIDING OFFICER. The Chair will announce the results of rollcall No. 103. On that rollcall vote, there were 44 yeas, and 56 nays. And the Senator from Virginia is not allowed to decline to vote.

(The rollcall is as follows:)

[Rollcall Vote No. 103 Leg.]

YEAS—44

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

NAYS—56

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

NO. 102—APPROVAL OF THE JOURNAL

The PRESIDING OFFICER. The Chair will announce the results of rollcall vote No. 102. On that vote, there were 65 yeas and 35 nays. The Journal is approved.

(The rollcall vote is as follows:)

[Rollcall Vote No. 102 Leg.]

YEAS—65

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

NAYS—35

Armstrong	Helms	Simpson
Boschwitz	Humphrey	Specter
Cochran	Kassebaum	Stafford
D'Amato	Kasten	Stevens
Danforth	Lugar	Symms
Dole	McClure	Thurmond
Durenberger	McConnell	Trible
Evans	Murkowski	Wallop
Garn	Packwood	Warner
Hatch	Pressler	Weicker
Hatfield	Quayle	Wilson
Hecht	Rudman	

Mr. BOSCHWITZ addressed the Chair.

Mr. BYRD addressed the Chair.

Mr. BYRD. Mr. President, has the Chair completed the Chair's announcements?

The PRESIDING OFFICER. The Chair has completed.

Mr. BYRD. Mr. President, am I recognized?

The PRESIDING OFFICER. The Senator from Minnesota sought recognition first.

The Senator from Minnesota.

Mr. BYRD. Mr. President, will the Senator yield to me without losing his right to the floor?

Mr. BOSCHWITZ. Yes.

Mr. BYRD. Mr. President, I hope I can proceed soon to call up the defense authorization bill. I will soon seek recognition for that purpose. I hope that we do not go on and on too much longer in this discussion of the rules but rather that we get on with a discussion of the defense authorization bill.

I have some people in my office who have been waiting patiently since 12 o'clock, and I am sure other Senators have the same situation. But I will be back shortly and I will seek recognition.

Mr. SIMPSON addressed the Chair.

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

Mr. BOSCHWITZ. Does the acting minority leader ask me to yield to him?

Mr. SIMPSON. Mr. President, I appreciate my friend from Minnesota yielding, but let me say to the majority leader there will be no attempt on this side of the aisle, at least that I am aware of, to prevent him from seeking recognition and proceeding. We will not be in that posture; we have not been in that posture. We were using the rules. We put forth our efforts on that point with the rules. I have nothing further.

I certainly want him to know that we are not involved in some concerted effort to delay further. I assume that

it is a debatable motion when the majority leader makes it, and from that point on it will be debated.

Mr. BYRD. Mr. President, I thank my distinguished friend for that assurance. It will be a debatable motion.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I will not proceed at great length. I would like to comment to the majority leader and the Senate about the proceedings of this morning because I think that we perhaps are in danger of establishing a precedent that will not serve the institution, and certainly will make the meeting of the institution more difficult.

I would first point out that the distinguished majority leader sought to bring up the defense authorization bill in the morning hour during which time a motion to proceed is not debatable. As he utilized the rules to his best advantage, so we on this side utilized the rules to our best advantage.

There perhaps were some dilatory practices, I am not sure, on this side, but the rule that deals with dilatory practices, indeed the only rule that deals with them to the best of my knowledge, is that involving cloture, the invocation of cloture.

We indeed felt that it was necessary to respond to the majority leader when he sought to bring up the defense authorization bill in the morning hour, bringing it up in that manner and preventing debate. We want to debate the defense authorization bill. Indeed, we did not want to be denied that opportunity to debate because of the bringing up of the defense authorization bill in the morning hour.

The use of the rules as we used them this morning is entirely within the rules.

There is no definition of a dilatory procedure, as the majority leader would wish us to understand, and dilatory procedures, as I understand the rules, are only curtailed through the process of cloture.

Those are the comments I wanted to make, Mr. President, because before it is assumed by those listening to the debate that we are dealing in delaying procedures, it must be understood that after 2 hours the motion to proceed can indeed be made, as the distinguished majority leader now wishes to make it. But during that period of the morning hour the debate on the motion to proceed simply could not have occurred.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I thank all Senators for their comments. I also thank all for their diligent attendance on rollcall votes.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. BYRD. Mr. President, I again ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 120, S. 1174, a bill to authorize appropriations for 2 fiscal years, fiscal year 1988 and fiscal year 1989, for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, I object.

Mr. BOSCHWITZ. Mr. President, I object.

Mr. BYRD. Mr. President, I move that the Senate proceed to the consideration of S. 1174, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I ask, first, about the parliamentary situation. It is my understanding that debate is now in order. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. I would like to initiate that debate.

I see on the floor the distinguished chairman of the Senate Armed Services Committee. At such time as he wishes to seek recognition, I will try to accommodate him in such a way that I do not lose the floor. Do I detect at this time he wishes to speak before I speak?

Mr. NUNN. I would say to my colleague that I would like to make a brief statement perhaps for 10 minutes. If the Senator would be so kind as to let me make a statement on this subject without his losing the right to the floor, I would certainly appreciate that. I would like to get back to the Iran hearings. I am sure that the Senate proceedings this afternoon will be very exciting. I will try to read the entire RECORD as to the Senator's words this afternoon.

Mr. WARNER. I thank my distinguished colleague and friend.

It would be my hope in the course of objecting to the majority leader's wish to proceed on this bill that we can do it in a constructive manner. It is important that we frame in the RECORD today, in a consistent way, just what are the issues that lead a certain number of Senators, foremost among them myself, to object to bringing up this very important piece of legislation.

I am wondering if we might discuss here, in the presence of the majority leader, the means by which I could speak for a brief period of time without losing the floor, allow the distinguished chairman of the Senate Armed Services Committee to rebut or otherwise comment on my remarks, and then other members of the Armed Services Committee give brief statements, perhaps 10 or 15 minutes in duration, so that we have in the RECORD today a constructive, substantive framing of this debate.

Now, having said that, if it would be agreeable, I will proceed for about 10, 15 minutes and then it would be my intention to seek unanimous consent such that my distinguished colleague could speak for a like period of time without my losing the floor.

Mr. President, I would like to begin my statement on the fiscal 1988–89 defense authorization bill by paying a most sincere tribute to my long-time friend, the Senator from Georgia [Mr. NUNN], chairman of the Senate Armed Services Committee. In his first year as committee chairman, his insight, his leadership, his sense of fairness, and his honest effort to proceed in a nonpartisan way in addressing the Nation's defense needs were certainly recognized by this Senator and I think all members of our committee. He has established in this brief period of time a reputation, a respect which will place him alongside the great chairman who have led this committee.

This working relationship with me, I value greatly. He has shared with me from the very start a role in the decisionmaking of this committee. Our first joint decision was to embark on a course, somewhat different from previous years, for the committee to hold a series of hearings to document the military strategy of this Nation and the forces required to implement that strategy. These hearings laid a foundation for the ensuing work of the committee, primarily the consideration of the 1988–89 defense authorization bill.

It was a demanding task but throughout it all he and other members of the committee worked to keep it on course and on schedule.

The only reason that a certain number of us are opposing the normal consideration of this bill is the Levin-Nunn amendment. I hope that the Senate will recognize the importance in having this amendment separated from the bill and addressed in a context other than the consideration of this bill. I suggest a freestanding bill.

I am pleased to inform the Senate that although eight of the nine Republicans voted against the bill, indeed, in our hearts we felt that the bill represented a sound, equitable, and fair approach to the many issues

involved in the 1988-89 authorization bill.

Now, we had to construct this bill under a degree of uncertainty as to the fiscal constraints. All members of the committee knew that Congress eventually would not be able to authorize a budget authority level and an outlay level as high as we would hope. Eventually, the budget process of the Senate produced the guidelines that are required but they were too late for this committee to incorporate in its final analysis of the bill. We therefore with equal emphasis, proceeded to address the bill at a budget authority level of $312 billion, as requested by the President, and then proceeded a second bill at a zero real growth level.

On the whole both bills in a fair and equitable manner balanced the necessities of reducing spending in view of the fiscal constraints and came out with a reasonable prioritization of the programs.

We also recognize that the House of Representatives is in the process of developing their bill at levels somewhat below that of the Senate. I say somewhat. Indeed, they are drastically below the level of the Senate. In the conference process a bill will eventually emerge which will have, again, regrettably, reductions below those established by the Armed Services Committee will in this bill be able to establish a position of the Senate as a whole.

Now, Mr. President, turning to that single provision in the bill which led eight of the nine Republicans to set a precedent, namely to vote against reporting out of committee this bill. I will summarize the basis for our opposition. The so-called Levin-Nunn amendment—indeed, it was a last-minute approach taken about 7 o'clock on a Thursday night when we had anticipated concluding on a Friday—would prohibit the expenditure of funds for certain development and testing procedures relating to the strategic defense initiative, SDI. It would require a joint resolution of the House and the Senate before the President could proceed with any development or testing of SDI which would not be conducted under the so-called narrow interpretation of the ABM Treaty.

In other words, either the House or the Senate could decide not to permit exercise of their options by the President. In effect, a one-House veto, a one-house veto which is a very dangerous precedent for the Senate to give in view of its explict powers under the Constitution on the "advice and consent" role with respect to treaties.

My objections are several. First, the provision represents a unilateral constraint on the United States on a military program which both the United States and the Soviet Union are now pursuing. The Soviets have been and are continuing to pursue an SDI program. This amendment would have the effect of placing on the United States Commander in Chief a restriction which would prevent him at some point in time from exercising the discretion to alter the R&D and testing program. It would in effect send a signal to the Soviets that we are now, going to interpret the treaty in a way to eliminate an option allowing the President to pursue a different course of action at some future date.

Now, this action is proposed to be taken by the Senate, the House have adopted a similar amendment, at the very time the negotiators are in Geneva endeavoring to reach common accords on a number of objectives to reduce the level of nuclear weapons throughout the world. It would limit the flexibiltiy of our negotiators and would impose on them a new starting point that indeed I think the Soviets would welcome. Essentially, if the Congress were to adopt this amendment, they would be pulling a chair up to the negotiating table and taking a seat alongside the negotiators, and that is unprecedented in the history of our Nation. Indeed, it is contrary to the balance of powers between the executive branch and the legislative branch, as set forth in the Constitution and a number of Supreme Court cases.

I ask my distinguished colleagues who oppose me: What has the United States received in return for this unilateral concession?

The Levin-Nunn amendment would permit an unacceptable intrusion by Congress into the President's jurisdiction to conduct our Nation's foreign affairs. Those Members supporting the Nunn-Levin amendment would be transgressing, in my judgment, that balance of power between the executive and legislative branches.

Second, under the restrictive interpretation recommended by the Levin-Nunn amendment, the United States may conduct only a limited number of SDI experiments; and if we were to direct that course of action, we would be taking away from the President the option of pursuing what we now recognize to be a more efficient, expeditious, and cost-effective research and test program to evaluate the feasibility of a deployed defense system.

In today's fiscal restraint atmosphere, a program of this magnitude should be examined in terms of saving dollars. The President has not yet made the decision to alter the present course of R&D and testing, but I say that Congress should not tie his hands at this critical time in the negotiations taking place in Geneva and while Congress is seeking ways to make defense programs less costly.

Third, the Levin-Nunn amendment would impose on the United States a restrictive interpretation of the ABM Treaty to which only the United States and not the Soviet Union would be bound. The precedents in this country clearly indicate that the President has the constitutional responsibility for implementing treaties during their lifetime. We are endeavoring, by virtue of this amendment, again, to transgress that constitutional responsibility.

Historically, our negotiators attempted to restrict both the United States and the Soviet Union to the narrow interpretation of the treaty during the period it was under negotiation some 15 years ago. But the record reveals that the Soviet Union was the party to those negotiations which refused to accept the United States position.

Now, some 15 years later, the Levin-Nunn amendment would bind only the United States to that restrictive interpretation and would have no corollary effect on the Soviet Union's obligations under the treaty.

Fourth, the Levin-Nunn amendment is in part based on concern for the proper role of the Senate in giving advice and consent on the ratification of treaties. This is certainly an appropriate concern, but the approach taken by the Levin-Nunn amendment would yield to the House of Representatives an effective veto over any Presidential decision to conduct development or testing beyond the restrictive treaty interpretations.

The amendment requires a two-House vote of approval before the President may proceed to such development or testing. Therefore, if the House alone should decide not to approve such a decision, they would prevail under the Levin-Nunn amendment.

For those Members who are concerned about the Senate role in this process, let me put it another way: If a majority of Senators were to agree that the President should be able to conduct certain tests under a broad interpretation, and the House of Representatives refused to give like approval, then the will of the Senate would be overruled. A simple majority of the House could overrule not only the President's decision but also a decision by the Senate. I trust that the authors of the amendment will be able to address this during the course of their debate.

Mr. President, I should now like to conclude my first address on this matter; and now ask unanimous consent that my distinguished colleague, the chairman of the Senate Armed Services Committee, the Senator from Georgia [Mr. NUNN], might take such time as he feels is necessary to make such preliminary remarks as he feels are appropriate, and to do so without my losing my right to the floor.

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

The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I thank my colleague and friend from Virginia for his kind words.

I certainly echo his words of praise, because he has been an outstanding leader in the Armed Services Committee for many years. He has been an outstanding Secretary of the Navy and has been a great member of our committee. He has been the ranking member of the committee on the minority side since I have taken over the chairmanship. So our relationship goes way back.

I assure my colleague that whatever transpires in the course of this debate, that relationship on matters relating to our national security will continue in a positive vein. I assure all my colleagues of that. This is a fundamental difference. We have fundamentally different viewpoints on this issue. It is going to be hard ball. It may very well kill the authorization bill this year. It may very well kill the appropriation bill, except for a meager continuing resolution. I think that is where this plays out.

I am not sure there will be 60 Senators voting to break this debate and go to the bill. I hope there will be, because this is not SAM NUNN's bill; this is not the chairman's bill; it is not the Democratic bill. It is not the Senate bill alone. This is the authorization bill for the Department of Defense.

I am therefore curious about some of the events that have transpired today. I am curious about where this will all lead. I am curious about what lies down the road. I understand the temporary tactics, but I am not sure how it plays out. It seems to me that we do have Members of the Senate who feel strongly about a particular provision, and they are at this point preventing the Senate from considering the entire fiscal year 1988-89 defense authorization bill which was reported to the Senate by the Armed Services Committee last week.

This is an incidental matter, but this is a 2-year bill; the first time we have had a 2-year authorization. The second year we have not put in 100 percent of the request, because the administration does not meet the Gramm-Rudman-Hollings targets. As the Senator from Virginia knows, we do have 73 percent of the requested authorization for the second year—that is, fiscal year 1989—which is incorporated in this bill.

Mr. President, Congress has enacted the defense authorization bill each and every year for 25 years. Virtually the entire defense budget now requires annual authorizations as a matter of law under title X of the United States Code. The Pentagon may not obligate or expend any funds unless they are authorized.

And that means authorized in the process of this bill and its counterpart in the House.

Preventing this bill from being debated will put the Department of Defense over a period of time in a very difficult situation.

The thing that is curious about this action to me, Mr. President, is that this authorization bill is essential to improving and strengthening our Nation's defenses, and certainly our colleagues on the other side of the aisle as well as this side of the aisle always have prided themselves on being very much in favor of our national security.

I can only assume at this point that perhaps my colleagues have made a mistake. They may be mistaken about what this bill is.

I say to my colleagues in case there is any mistake that this is not a State Department authorization. There are no nominations in it. There is nothing in it that controversial. It also does not have any revenue enhancements in it, to the best of my knowledge as chairman of the committee. Revenue enhancements are what some on this side of the aisle called tax increases. Until 1984, when we were taught a very vivid lesson. There is nothing in here like that. There is no controverisal nomination.

So I would say that our colleagues who are exercising their right under the Senate rules for extensive debate on the motion to proceed need to consider very much where they are going in the overall procedure here.

If this bill is blocked, is the Senate in effect saying, as our colleagues are saying, that we will forego for 2 years the procurement of all ships, airplanes, tanks, and vehicles for the military services that this bill contains? Is that what we are saying? Are those who are blocking the bill saying we are to forego 2 years of training and exercises necessary for Air Force pilots, our Navy crews and Army battalions to be ready to fight if a war comes about? Are those who would block this bill saying for 2 years we can turn out the lights in our alert missile silos, stand down our strategic bombers and take off alert and stand down our sea-based missile force that constitutes the heart of the deterrent? Are those who block the bill saying for 2 years we do not want to buy spare parts, ammunition, and other supplies to sustain our forces in combat? Is that what is being said?

Are those who do not want us to proceed to consider this bill saying that we do not need the 2.2 million men and women on active duty and 1.2 million National Guard and Reserve personnel which this bill authorizes? Is that the message going out?

Are those who would not have us proceed on this bill saying we do not want the 4-percent pay raise this bill provides for our military personnel or that we do not want to increase the sea pay and submarine pay for those military personnel who have to undergo very long and very difficult family separation? Are those who do not want us to proceed today saying that we do not want any military construction for 2 years at any installations in the United States or overseas? Are they willing to forego the bed down of beginning of the B-1 Program in terms of deployment, the new, light division in Fort Drum and Fort Wainwright, all the naval strategic homeporting and family housing for military housing? Is that what we are saying here?

Are those who do not want to proceed today willing to forego the research and development programs for such important programs as the Stealth bomber and SDI Program which are certainly essential to the security of our country? I that what is being said?

Mr. President, I can only conclude the answer to these questions is really "No" because I know my colleagues better than that. I know they do not want to hold up those programs. But I am not sure where this is going to lead us.

Certainly we can fool around for a week or two. We can have a long and lengthy debate, and I think we should have a long debate on this controversial provision, but I certainly do not believe my colleagues on the other side of the aisle are willing to sacrific all of this, which is really the heart of our Nation's security, over one provision because this filibuster, if it can be called that. Perhaps we should delay that wording right now, but I think that is what we are in, not just blocking one provision, but blocking the entire authorization bill for the Department of Defense for fiscal years 1988 and 1989.

What is it that is so objectionable in this bill? What is it that prevents our colleagues from even wanting the Senate to debate the bill itself and turn to it in a formal sense on the floor?

It turns out, Mr. President, that the problem is with only one provision of the bill. That is section 233 which deals with the testing of the strategic defense initiative.

This provision, authored by the Senator from Michigan and cosponsored by myself and voted for by 12 members of our committee, prohibits the expenditure of funds for testing or development of mobile or space-based ABM systems or components, including ABM's using exotic technologies, unless the President submits a report to Congress and Congress passes a joint resolution allowing this testing. The joint resolution would be subject to expedited procedures in both

Houses to guarantee its prompt consideration.

This means that the President, if he decides to go to the broad interpretation in terms of testing, would have to file a report in Congress and he would have to get Congress' approval.

I ask my colleagues, does anyone believe that we really could begin a program that would depart from the historical traditional interpretation of the ABM Treaty without Congress being in on the act? I do not understand that logic. I do not understand that logic when you are talking about a program where the least amount of money that you are talking about to go forward is probably $4 to $6 billion a year. For the next 5 years you are talking about escalating costs on up the ladder and if you are talking about deploying it you are talking about anywhere from $50 billion to $1 trillion and $1½ trillion.

I do not see how anyone can think that can be done without a bipartisan consensus and without approval of both Houses of Congress.

What we are saying is, do not break out of the ABM Treaty without our having something to say about it.

We view the broad interpretation as a reinterpretation of the treaty. We say that to reinterpret, Mr. President, you cannot alone do it alone. We are saying you have to get Congress on board. I just do not see how you can proceed on a program of this magnitude without having Congress on board. Someone is going to have to explain that to me.

I cannot understand why the opponents think this is such a radical departure.

First, the President has not even requested the funds to do that which this provision would prevent them from doing. On the contrary, the administration has testified that the strategic defense initiative program for the next 2 fiscal years has been designed to fully comply with the traditional interpretation of the ABM Treaty. That is the testimony we have before us.

Second, even if the strategic defense initiative would be restructured to conform to the so-called broader interpretation, the key systems in the specific near-term deployment architecture which are now being pushed by some advocates of the strategic defense initiative, still could not be developed or tested in all probability in space even under the broad interpretation. That is the most curious thing of all.

The programs that relate to early deployment are the kinetic kill programs, and those programs are not new technology. Those programs are not exotic technology. So even if the broad interpretation is adopted by the President and even if Congress approves it, there is a strong case that these kinetic kill programs cannot be tested under the broad interpretation. They can be tested if the President decides to abrogate the treaty and I think in that case he ought to also certainly get the approval of Congress, but that is another issue.

The reason that this is true is because the systems that are so-called early deployment options involve traditional technologies that were in effect in the early 1970's, not so-called exotic or futuristic technologies. The difference between the broad and narrow interpretation, and we have been hearing an awful lot about this, is not a vast difference. It does not relate to whether you can deploy SDI. Both broad and narrow say that you cannot deploy strategic defense initiative type systems except under the very limited land-based system provision of ABM Treaty. So this issue is not about deployment. It is really not about traditional technologies; it is about future technologies. Therefore, the most puzzling part of this whole exercise to me, one that makes the whole exercise so futile at this point in time, is that the technologies that are being talked about for early deployment cannot be tested under either interpretation, whether we have the broad or the traditional.

That is what really boggles my mind. I do not understand what we are debating.

The New York Times Sunday had an article which talked about the new technologies and talked about the proposed kinetic kill program and talked about the various legal interpretations and noted that Judge Sofaer, who is the primary author of so-called broad interpretation, said even he had not decided that these early deployment systems could be tested under the broad interpretation. Yet we have a Defense Department report that is conjuring up this huge cost and delay that is going to take place after we have the traditional interpretation. I have not seen it yet, but I am told that the primary ingredients in it are the old technologies which cannot be tested under either interpretation.

It is a very, very curious thing that we are going through here. I think it relates more to ideology and perhaps even theology than it does to actual reality about where we are in terms of SDI.

The third reason I would say that this whole area is puzzling to me, is that it would be unprecedented, Mr. President, for Congress to give the President of the United States a blank check to unilaterally undertake a major restructuring of important defense programs. What the President is saying is give me $5.7 billion and let me do anything I want with it and I will tell you what I have done after I have done it, perhaps.

Basically, they have testified they do not need the broad interpretation to carry out the program over the next 2 years. There is, however, a Defense Department report, I say in fairness, that is now floating somewhere out there in the secret corridors of the executive branch, only known to the executive branch so far and the news media, not yet shared with the Senate, that says they need this broad interpretation. I hope at some point, when it has been thoroughly hashed out in the newspapers and they all throughly understand it, that the Senate will be given a copy of that report. I trust that is the case.

Nevertheless, what we have here is the President asking for a blank check. Now, what we have got in this bill is not the full administration request for SDI. I think we have a very good number in the bill for SDI. We have $4.5 billion, with a pretty good consensus on our committee on that. But I must say that consensus was framed on the basis of what the administration had testified to as to what was going to be done with the money, and that is to have the money spent in terms of the traditional interpretation.

My friend from Virginia mentioned a minute ago, if I recall his exact words, something to the effect that this would basically interfere with the President's prerogatives in Geneva. There is nothing in this amendment that keeps the President from announcing that he is going to the broad interpretation. There is nothing in this amendment that keeps the President from abrogating the treaty, although I think that would be a very unwise decision. He has a right to consider that as an option. I think Congress ought to be brought into that one, too. But, nevertheless, there is nothing in here that prevents that.

What it says is that since you have testified you are going to adhere to the traditional interpretation for the next 2 years, if you are now going to depart from your own program, as described to us in the Abrahamson testimony, if you are going to depart from that, you cannot do it without Congress. We did that on the MX.

Can you imagine the Congress saying to the President:

> Here is $4.5 billion for the MX missile, Mr. President. Now, you go on out there and you put it in any kind of basing mode you want. Don't check back with us. Just go do it. Put it in fixed silos or put it in some side of a mountain or put it on a ship. Just here is the money, you go on out there and do it.

We have never done that. Nobody would even consider doing that. In the case of the MX program, Congress insisted on having both the House and the Senate approve the basing mode. We have to approve, the House and the Senate that is, everything in the Department of Defense bill whether the executive branch likes it or not. That is part of what the Constitution

of the United States says is our duty. We have to approve that.

As a matter of fact, if you go back to the ABM Treaty itself, there was a decision made not to deploy any ABM's, which we had a right to do, around the Nation's Capital. That was made in the early 1970's. Who made that decision? Congress made that decision.

Under either interpretation of the original ABM Treaty, we could initially have deployed a system around the Nation's Capital, a limited sytem. The Congress concluded it would not be worth the money. But, nevertheless, who approved that? The House and the Senate.

We also approved only a limited number of ABM's for deployment at Grand Forks and then finally decided not to have any ABM's there. Who made that decision? The House and the Senate.

And now we are told:

Forget about all that. Forget about all that. Forget about the constitutional duty of Congress to take care of the Department of Defense. We want to give the President $4.5 billion and we want him to be able to do anything he wants with that money, whether it complies with his representatives' testimony before the committee, or whether it complies with our view of the ABM treaty or not. Just give him the money. Give him the money because we are involved in arms control negotiations in Geneva.

We could have done that on the MX. We could have said with regard to the MX basing mode issue:

Oh, that is important to our negotiating position in Geneva. Therefore, Mr. President, we are going to throw a hunk of money at you and you just do whatever you think is right in that case.

Now, we did not do that. There was not anybody, I do not think, that advocated that. We are all involved in that basing mode debate.

We are told now that because we are restricting the kind of SDI testing the President can do unilaterally without coming back to Congress, we are told this is some kind of radical departure and that it is an intrusion on foreign policy.

I do not understand that. The logic escapes me completely. Was it an intrusion on foreign policy for the Congress to put a restriction on the MX basing mode? Was it an intrusion on foreign policy for the Congress to put restriction after restriction on what kind of deployed ABM system we were going to have? It never has been deemed so before. That is not foreign policy. That is a question of how you spend money.

Now, I will certainly grant you that how you spend money in defense has a spillover effect in foreign policy. But we are not saying to the President of the United States:

Mr. President, you can't go over there at Geneva and talk to the Soviets about a broad interpretation.

We are not saying that. We are not saying:

Mr. President, you can't tell the Soviets in Geneva that it is your plan, If SDI works and is feasible and so forth, that it is your plan to deploy it at some point.

We are not saying that. We are simply saying:

Mr. President, here is $4.5 billion in this bill for the Strategic Defense Initiative. If you are going to spend in it in a way that has not been presented to the Armed Services Committee and the Congress and in a way that is not part of your traditional interpretation and not part of your presentation to the Armed Services Committee, we have got to approve it first.

We did not do this out of the blue. We did not come out of some vacuum. What we were reacting to was a State Department opinion and a Presidential dialog with verious agency heads in his administration that asserts the right of the administration to go to this new interpretation any time they want to. They finally, after a long time, agreed to consult with the Congress. "Consult:" that could be 1 hour, it could be 5 minutes, it could be 1 month, it could be 2 months, it could be 9 months. We do not know what "consult" means. No one else has ever known, either, though it is better than nothing.

We are in what I consider to be uncharted constitutional waters here. We have the administration saying: "Give us $4.5 billion. We reserve the right to unilaterally interpret our treaty obligations." Treaties are if you believe the U.S. Constitution, the law of the land. But the administration says: "Leave that up to us, boys. Don't you get involved in all those nitty-gritty things about what the Constitution means. Tell us that we can go out and spend this money any way we want to. We will take the $4.5 billion and if we can devise a test soon enough that would be reach this key provision of the ABM Treaty, give us the authority to do it."

Now, I just really cannot believe that my colleagues on that side of the aisle—and I treasure my friendship with so many people on that side, as I do on my side—I cannot believe the Senate's institutional role is going to be disregarded in this debate. I cannot believe the Senate's responsibility to ratify treaties is going to be disregared. I cannot believe that we are going to say to the President of the United States, whether he is a Republican President or Democratic President: "Mr. President, you interpret the treaties. We will give you the money and you do whatever you want to with it."

I suppose that "Mr. Conservative," by everybody's definition, is Barry Goldwater. Barry Goldwater went to the Supreme Court of the United States on a matter of principle when there was a revision of the treaty with Taiwan, known as the Republic of China. The Supreme Court, as I understand it—and I am going to do more research on this—declined to decide the case on procedural grounds, in part because the Senate has not spoken on that point. But Senator Goldwater went to the Supreme Court of the United States as a matter of principle—"Mr. Conservative," a man we all love and cherish, former chairman of this committee—because he did not believe the U.S. Senate ought to be disregarded on the ability of a President to abrogate a treaty. And that was the Senate had not even spoken.

And now here we have an effort to keep the Senate from debating this provision, not after a majority has spoken, but without the Senate having ever debated this provision. What we have is an effort to block the Senate from speaking on the issue.

It seems to me that is flipping the whole theory that Senator Goldwater had, when he went to the Supreme Court, on it's head. We are not even going to be permitted, if the filibuster succeeds—and maybe it will—we are not even going to be permitted to speak on this issue.

Well, Mr. President, I just believe there is a lot of soul-searching that has to go on. I also think the executive branch has got to do some. It seems to me the executive branch is in one of the most curious situations I have ever seen. They are over in Geneva negotiating a treaty on intermediate range nuclear forces, the so-called INF treaty. Hopefully, in the next few months, they are going to have a treaty and they are going to present it to the U.S. Senate. Then they are going to be confronted with the State Department theory, which departs from everything we have known in our constitutional history. They are going to be confronted with that and we are going to have to say to them:

Mr. President, Mr. Secretary of State, we sure would like to consider that INF treaty, but you have told us with regard to the ABM treaty that what the Senate is told by the executive branch witnesses, the Nixon administation of 1972, was wrong and it does not have any meaning.

What we should have done in 1972 is gotten that negotiating record, and we should have gone through every detail of it. Wherever we had a question about that negotiating record, we should have put it in the form of a reservation. We should have said the treaty is ratified subject to this reservation. And we should have required the Soviet Union to agree to that reservation. We should have not only done it on things that were at issue, things of controversy; but we should have taken something that was not controversial that some astute lawyer might 15 or 20 years later think should be changed, and have taken

that and put it in the form of a reservation, too.

The State Department is basically telling us, "Do not trust what the executive branch witnesses say before the Senate; do not trust what they portray as the meaning of a treaty; do not do that. Go back and look at the negotiating record, then put in reservations, and make sure that the other party agrees on them and signs them." I think that almost renders helpless the executive branch treaty-making authority. What we will have to do when the INF treaty comes before us, based on this State Department document, unless they change it, is say, "Get the wheelbarrows out, folks; haul those documents in." We will have to obtain every memorandum that has ever been written in the executive branch about this negotiation. We will have to have every secret or classified subjective opinion by our negotiators. We will have to have all of that not only on INF, but since this is a three-basketed negotiation, we have to find out what was said in the START talks and what was said in the space talks because there certainly has been overlap, even though these talks may still be ongoing.

If we do not get the INF negotiating record, there is no earthly way we can comply with the State Department, or Sofaer, or executive branch doctrine of Senate responsibility because they are saying: "Do not believe what we say, go look at the negotiating record on anything that is important, put it in the form of a reservation, and make the Soviets sign it again." That is an untenable position for the executive branch to take. What is just truly amazing to me is that there are not more people in this administration who seem to understand this, because what they are doing is jerking the rug right out from under their own feet in terms of treaty ratification.

Our Founding Fathers intended treaties to be difficult to ratify. There is no doubt about that. They would not have put the two-thirds requirement on it if they did not think the treaties ought to be ratified very, very carefully. But I do not think they ever intended that we were going to not even trust what was told the Senate of the United States by official executive branch witnesses and was adhered to by four different administrations over a 15-year period. I do not think they believed it ought to be that difficult.

So what is at stake here is a whole lot more than the question of a little negotiating leverage in Geneva. I think it was very little. I am not going to make a case it had no leverage. There was probably some very small amount of negotiating leverage. But what we are doing in the first place is holding up the whole defense bill because of what which seems to me a totally disproportionate concern.

The second thing we are doing, if you take the State Department doctrine, is eroding very severely the ability of the executive branch and the President, whether this President or the next one, to enter into treaties with the hope that they may be ratified. I cannot conceive—and I have been over to Geneva a lot of times, and I know a lot of other people who have, too—of how we could go through a negotiating record on INF in a period of less than several months. I do not know how many Senators are going to go over the record. If we had the same rule we have with the ABM negotiating record, you have to go up to S407 and really only about two Senators at one time can read it because there are only one set of books, and they are pretty big. But you really have to do it in two's.

I do not see how we can get through an INF Treaty ratification procedure in less than probably 8 months to a year. I do not see how it could be done physically, if even 40 or 50 percent of the Senators are going to read the record.

Someone had better start thinking about where we are going. We are on a slippery slope here. We are on the slippery slope regarding the Senate's role under the Constitution of the United States and the ratification of treaties. We are on the slippery slope as far as perhaps killing the defense authorization bill. We are on the slippery slope as far as the treaty-making authority of the President of the United States, whether President Reagan, President Carter, or the next President. We are on the slippery slope as far as being a nation of laws. And we are on the slippery slope as far as whether America's word can be taken when we enter into an obligation.

I want to say right at the beginning, before anybody points it out, that if there are Soviet violations of this treaty—and I think there are some—then I think we ought to deal with those violations forthrightly. You do not deal with the Soviet violations by reinterpreting a treaty. The treaty of the United States is the law of the land. If a treaty is going to be reinterpreted 15, 16 years after the fact, the Congress of the United States has to have something to say about that law. The President cannot unilaterally reinterpret a law. He cannot do that. He cannot unilaterally reiterpret a treaty. He can come to the Congress. He can say to the Congress in good faith, "We think there has been a misinterpretation for 15 years, and we want to enter into a dialog with you, and we want you to approve a reinterpretation." That would be in order.

There are those who would say that if indeed the Sofaer analysis of the negotiating record is correct; that is, that the United States and the Soviet Union had an understanding and the Senate of the United States ratified another agreement, then that agreement with the Senate should not be binding on the executive branch vis-a-vis the Soviets; if that were the premise and if that were correct, it would be a case of first impression. However, I think the Sofaer analysis on the negotiating record is fundamentally wrong. I have already said that.

We are going to be getting into that debate, I hope, in open fashion. I hope it will be open. I understand there was a report released today, at 2 o'clock, that basically lays out the negotiated record which was previously classified, and which took 9 months for us to get, which is now being declassified as far as the Sofaer part of it. I have been assured by Judge Sofaer and Paul Nitze this morning, speaking for, I assume, the administration, that any Senator, including me or any other Senator who had an opinion on that negotiating record, will also have the right to have it declassified. Of course, in all fairness, that will be the only acceptable route. I do think that is going to happen.

But the point is, Mr. President, this is a serious issue. It deserves to be treated seriously. I do not think a prolonged debate is going to solve anything. I think what a prolonged debate is going to do is probably erode the ability of this Congress to pass an authorization bill.

Again, it is not my authorization bill, or a Democratic authorization bill. It is an authorization bill that authorizes the Army, Navy, Air Force, Marine Corps, and all the personnel, and all the pay of our people around the world. Certainly the theory can be, well, we will limp through with a continuing resolution. Maybe we will in October or November. Maybe we will erode the ability of the Armed Services Committee to present a bill next year. I do not know.

Whatever else, I know this: I know a continuing resolution is going to have a very adverse effect on the Department of Defense because you are not going to be able to start a lot of new programs. You are not going to be able to have the major thrust that we have in this bill. I think all of our colleagues know that. I know that. I know every member of the Armed Services Committee who has contributed to this bill does not want to see it go down the drain. If there are 51 votes to take this provision out, then you will see me marching off and following the orders of the Senate. I am not going to filibuster anything because I think the defense of our country is too important. So if 51 of our colleagues decide the Levin-Nunn amendment should not be in here, I will adhere to that. I will respect it. I would not agree with it, but I would

respect it. I will urge my colleagues to do likewise.

Let us debate it. Let us talk about the issue as long as necessary. But let us do so in a spirit of comity and a spirit of understanding that there is a lot more at stake here, a lot more at stake than simply the question of whether we have a broad or narrow interpretation. We have institutional concerns. We have concerns about the Constitution. We have concerns about the role of the Senate. We have the armed services of our country and the national security which are very much at stake.

I want to repeat one thing. If we have to go all the way to October, November, unless there are 51 votes to take this provision out, it is going to be in there as far as I am concerned, unless the administration decides they are going to make some accommodation which they should have done to begin with. If the administration decides that this is a partnership, this Government is not a government by king and the Congress of the United States has something to say about this, if they take that attitude, and give us the proper assurances, there is no need to have anything in law.

But what we have right now is the President and his advisers saying that they can do anything they want to with that $4.5 billion. "Give it to us, folks, and we will decide what is right. We will decide what the Constitution says about treaties. We will decide what the law of the land is. We will decide that unilaterally. We do not need any advice from the Congress," That is an unacceptable position from the executive branch.

It will be unacceptable in this month, it will be unacceptable in June, it will be unacceptable in July, it will be unacceptable in August, September, October, November, and December. It will be unacceptable in my view to a majority of this body from now on.

I thank my colleague for yielding.

Mr. WARNER. Mr. President, before my distinguished colleague leaves the floor, he mentioned he had talked with Judge Sofaer about the declassification of portions of the record.

For purposes of clarification, you indicated that if another Member of the Senate had a concern, I think you prepositioned it with it would be declassified, and the "it" referred to a portion as opposed to the whole. Am I correct in that assumption?

I think other Members of the Senate do have a concern about that and are listening, hopefully, to what my distinguished colleague has said. I just want to clarify what was your interpretation of what Judge Sofaer, counsel to the Secretary of State, said.

Mr. NUNN. I thank my friend from Virginia for asking for the clarification.

My understanding was that the Sofaer analysis of the negotiating record was to be released at 2 o'clock this afternoon with a declassified version.

Mr. WARNER. A portion of it is here and I intend to address it.

Mr. NUNN. That is correct. The whole record has not been declassified.

Mr. WARNER. That is right.

Mr. NUNN. If there is a Senator, and I have my own report which I will be asking for declassification on, if a Senator has a report as to their view on the ABM interpretation of the negotiation record—

Mr. WARNER. Or a portion.

Mr. NUNN. There is no reason you could not include the whole record if you needed clarification. There has been no limit. I do not know how you could say we are going to take parts of the Sofaer interpretation and declassify those but if you have other points they will be classified top secret and you cannot tell us about those.

The understanding I had was anything relevant to an opinion on the narrow or broad interpretation, if anyone felt strongly about it, would be declassified.

Mr. WARNER. I would add that the distinguished Senator from Georgia has stated that and I will proceed to clarify that for the benefit of other Members.

Mr. NUNN. That does not mean that any Senator has a right to declassify this. This has to go through the State Department proceedings. It would be the ultimate irony, and I do not attribute this to the administration, if they were to say, "We can declassify our part but you cannot declassify your part."

Mr. WARNER. I was not trying to separate what was ours and what was yours. I did not want to give the impression that the whole thing could be declassified.

Mr. NUNN. That has not been conveyed to me. No one has said that the whole record would be declassified. Frankly, I think the reason for classifying the record is the diplomatic reason of concern for the other country and concern about the negotiators, whether we are going to inhibit those negotiators in their own free advice, and so forth. I think that is a legitimate concern. But when the negotiators as in this case, as in the Nixon administration, have been essentially accused of coming back and being misleading, in a grossly negligent manner, misleading the President of the United States, the Congress of the United States, the Defense Department, misleading four different administrations up to 1983, it seems to me there is not very much in the way of protecting them or these negotiators when you inhibit the record from being known because these people are being accused of either gross negligence or deliberate misrepresentation, one or the other.

Mr. WARNER. I will say to my colleague there is also the other party in the negotiation. History has shown that there are certain advantages of keeping that portion.

Mr. NUNN. I think the Senator is correct on that. Far be it for me to plead for the Soviet Union on this, but is seems to me that so much of the record has already been made public. The most puzzling thing of all was that the negotiators who were in Moscow negotiating an ABM Treaty came back and presented it to then-President Nixon are now in my view being accused of gross negligence or intentionally misleading the presentation to the Senate. Those people have not been given access to the record. They have not been able to go back to their own notes and review. So they are being accused of this but they are being barred by classification from looking at the things they said back in 1971. That is sort of an irony.

But this is a step in the right direction in my view, to go ahead and declassify this. I am not sure it should be Presidential in terms of all other negotiations because you get into a very slippery slope on that one, too, about how much you are going to be able to win. But I do think in this unique case where we basically have a misinterpretation and negotiators intentionally accused of misinforming the Senate, it seems to me we have almost no choice but to declassify.

Mr. WARNER. Mr. President, a parliamentary inquiry. It is my understanding that this Senator still retains the floor.

The PRESIDING OFFICER. The Senator retains the floor.

Mr. WARNER. Before the distinguished chairman leaves, I would like to address, certainly in a period of time here which is foreseeable, one other point. The chairman and I had expressed a wish that members of the Senate Armed Services Committee in alternation could address their concerns about, hopefully, the issue before the Senate at the moment; namely, the motion to proceed on the bill as opposed by myself and others for the purpose of inclusion of the Levin-Nunn amendment. It would be my hope that I could proceed with a unanimous consent request at this time which would enable the distinguished author of the amendment, the Senator from Michigan, to proceed for perhaps 20 minutes. Would that be agreeable?

Mr. LEVIN. Yes.

Mr. WARNER. And immediately thereafter, the distinguished Senator from California to proceed for what period of time?

Mr. WILSON. Mr. President, approximately 20 minutes. The difficulty

I am facing is that I was under the impression that I would follow Senator NUNN.

Mr. WARNER. Mr. President, the Senator from California is correct. He would be next, using the alternating procedures, for 20 minutes.

Mr. LEVIN. Would the Senator include in his request that I would speak following Senator WILSON? That was my understanding.

Mr. WARNER. That is correct. And then Senator QUAYLE, the Senator from Indiana, would follow the Senator from Michigan.

I ask the distinguished Senator from Mississippi, would he like a period of time to make some opening comments on this motion to proceed?

Mr. STENNIS. Not at this time.

Mr. WARNER. Mr. President, I present the following unanimous-consent request: that without my losing the right to the floor, the Senator from California would proceed for not to exceed 20 minutes; that immediately thereafter the Chair would recognize the Senator from Michigan for a period not to exceed 20 minutes; that immediately thereafter the Chair would recognize the Senator from Indiana for a period not to exceed 20 minutes, and then the Senator from Virginia would regain his right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, reserving the right to object, is the unanimous-consent request in order to preserve your right under the two-speech rule?

Mr. WARNER. To reserve my right to retain the floor as I rose following the majority leader's request to proceed to this bill. I could retain the floor for a period of time, but I felt it very important that the issues surrounding the debate be framed at one place in the RECORD so that those who want to follow this could have a clear understanding why this Senator and others are objecting to the Senate proceeding to the consideration of this bill.

Mr. NUNN. If the Senator will yield, I have a friendly suggestion. The Senator, I think, is absolutely sincere in this allocation of time. But I think there will be serious objections to a management of time under essentially a filibuster with allocation being made by the person on the floor.

As just a friendly suggestion, I suggest one at a time and not a unanimous-consent listing. I think that is going to bring some problem before the day is over.

Mr. WARNER. Mr. President, I fully recognize I am proceeding on the midline, as someone said earlier today, that any time a Member of this body may object. I am doing it at the request of a Member on the other side since the next Senator I asked to be recognized would be followed by a Senator on the other side. We have only ordered three Senators at this time.

Mr. LEVIN. How about two at a time to avoid that problem?

Mr. NUNN. Can the Senator stipulate very clearly which of the Senators speaking are participating in the filibuster and which are presenting subsequent views?

Mr. WARNER. That I think we will leave to the discretion of the Senate once they have heard the remarks. But I am advised by my colleagues certainly on this side and I feel on that side that we will have constructive debate, and therefore I would ask the President to once again propound the unanimous-consent request.

The PRESIDING OFFICER. The request is for unanimous consent——

Mr. SPECTER. Mr. President, reserving the right to object, and I do not intend to object, I wonder if the distinguished ranking member would incorporate into his scheduling a period of presentation for this Senator. I know the Senator from Arizona also wants the floor, but if we are going to be scheduling matters at this time I would certainly appreciate that.

Mr. WARNER. Mr. President, I would have to do it in a sense of fairness by saying that the order I have stated thus far; namely, the Senator from California, followed by the Senator from Michigan, followed by the Senator from Indiana would have to be followed by a Senator in opposition to the position taken by the Senator from Virginia and then the Senator from Pennsylvania.

Mr. SPECTER. I understand that. If the Senator from the other side of the aisle comes, they would intersperse presentation by this side of the aisle, but if I may follow the Senator from Indiana. The Senator from Arizona is——

The PRESIDING OFFICER. We have a unanimous consent request as stated.

Mr. STENNIS. Mr. President, will the Senator yield to me for a moment? I want to reserve all rights that I have under the situation as it is now. I have been working on another bill. I expect to use some time to make some remarks. As I understand the Senator from Virginia is not trying to preclude anyone.

Mr. WARNER. Mr. President, certainly not in any way. I am trying to present a sense of order here to accommodate colleagues on both sides of the aisle. I assure whenever the Senator from Mississippi seeks recognition, this Senator would grant that and I am confident all other Senators would. So whenever the Senator from Mississippi——

Mr. STENNIS. Just so there is no confusion that I may use time.

The PRESIDING OFFICER. We have a unanimous consent request to allocate the time as stipulated. Is there any objection to that unanimous consent request?

Mr. SPECTER. Will the Chair restate the sequence?

The PRESIDING OFFICER. The sequence is 20 minutes for the Senator from California, 20 minutes for the Senator from Michigan, 20 minutes for the Senator from Indiana, and the Senator from Virginia retains his right to the floor throughout that process.

Mr. SPECTER. It is also my understanding that following the Senator from Indiana there will be 20 minutes for a Senator from the other side of the aisle.

The PRESIDING OFFICER. I would interpret the request to conclude as the Chair stated it. It would then be appropriate to receive other unanimous-consent requests.

Mr. WARNER. Mr. President, at this time in order to again accommodate Members present, could I amend my request to further stipulate that following the Senator from Indiana, a period not to exceed 20 minutes would be utilized by a Member in opposition to the Senator from Virginia, presumably from this side of the aisle, and that thereafter the Senator from Pennsylvania could proceed for a period not to exceed 20 minutes?

Mr. SPECTER. I thank the distinguished ranking member.

The PRESIDING OFFICER. Is the Senator offering that as an amendment to the original request?

Mr. SPECTER. Mr. President, I am at this time offering that as an amendment to the original request.

The PRESIDING OFFICER. There is an amendment to the original unanimous consent.

Mr. NUNN. addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, reserving the right to object, and I am afraid I will have to object, I do not disagree with any substantive delineating the Senator from Virginia makes, but I think we are in a very curious position if what we have basically is an extended debate on a motion to proceed and if we have one of the people leading that debate in a positon of allocating time all around the Chamber without losing his right to the floor. It just seems to me it is a very curious procedure. I would urge the Senator from Virginia to simply yield one at a time, because there may be some motions that the majority leader would like to make, and if you get unanimous consent on this—I hate to object, but I think I must object until the majority leader is present.

Mr. WARNER. At this time I wonder if the Senator from Georgia would allow me to propound my original request; namely, at this time the Chair would recognize the Senator from California, to be followed by the

Senator from Michigan, to be followed by the Senator from Indiana for a period not to exceed 20 minutes, and the Senator from Virginia thereby retaining his right to the floor at the conclusion of those three statements.

Mr. NUNN. Would the Senator advise, is that a total of 1 hour.

The PRESIDING OFFICER. That would be for a total of 1 hour.

Mr. WARNER. That would be correct.

Mr. NUNN. I would reluctantly have to object to that at this time unless and until the majority leader is on the floor——

Mr. LEVIN. May I make a suggestion?

Mr. LEVIN [continuing]. Under these circumstances.

The PRESIDING OFFICER. The Senator from Georgia objects.

Mr. LEVIN. Will the Senator from Virginia yield?

The PRESIDING OFFICER. Does the Senator from Virginia yield?

Mr. WARNER. I yield.

Mr. LEVIN. May I suggest that the Senator ask unanimous consent to yield to the Senator from California and then he simply express his intent that after the Senator from California has completed, the Senator from Virginia would then ask unanimous consent to yield to whoever would be next without making that part of his unanimous-consent request now? In other words, just ask unanimous consent at this point to yield to the Senator from California and we know then what would be forthcoming, but we would not be approving it herein and thereby not allocating the floor for an hour. I would be satisfied with that although it does not give me as much protection as the other way did.

Mr. NUNN. I say to my friend from Virginia, as long as the time is within 1 hour, I would have no objection. So if the Senator wants to propound it——

Mr. WARNER. Therefore, Mr. President, I propound my original unanimous-consent request; namely, that at this time the Senator from California proceed for not to exceed 20 minutes, the Senator from Michigan to follow, to be followed by the Senator from Indiana, and the Senator from Virginia retains the right to the floor.

The PRESIDING OFFICER. We have a unanimous-consent request. Is there objection? Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

The PRESIDING OFFICER. The Senator from California is recognized for 20 minutes.

Mr. WILSON. Thank you, Mr. President. I thank my distinguished colleague from Virginia and my friends all around.

Mr. President, let us begin with a definition, a very simple one. Clearly others may see it differently, but we are here because of an amendment to the defense authorization bill. The amendment, the so-called Levin-Nunn amendment, is one that seeks to condition the funding for the strategic defense initiative, or as its critics term it, star wars, upon agreement by the United States, the executive branch, to a narrow interpretation of the ABM Treaty. A narrow interpretation, Mr. President, is one which under the Antiballistic Missile Treaty of 1972, part of the SALT I agreement, says that there can be no development, no testing of any other than a fixed ground based antiballistic missile defense; there can be only research.

Now, Mr. President, you have heard the distinguished Senator from Georgia, the chairman of the committee, outline in some detail a number of the desirable features of this fiscal year 1988 and 1989 defense authorization bill. He asked, do the Members of this body really wish to sacrifice to a debate upon this amendment all of those good things, the carriers, the tanks, the various lines of aircraft, the defense contracts, the military construction, the pay raise for the members of the armed services? Do we really want those things to be held hostage and perhaps sacrificed for this amendment? The answer to that is clearly no, because it is unnecessary.

A little history, Mr. President. For the first time in a very long time the members of the Senate Armed Services Committee voted to send the defense authorization bill to the floor not, as in the past, on a broadly bipartisan basis but on an almost straight party line vote, and I will state flatly that if the Levin-Nunn amendment had not been a part of that bill I think there would have been virtual unanimity, that every member would have voted to send that bill to the floor with an enthusiastic endorsement, because the underlying bill is a good one.

So why is it, Mr. President, that someone who feels strongly, as I do, about national security, who has never before voted against sending of the defense bill to the floor, who has never voted against it on the floor, who has never urged the President of the United States to veto it should it reach his desk, find himself in this distinctly uncomfortable and uncharacteric position? Why, Mr. President, is this bill, so long as it retains the Levin-Nunn amendment, dead on arrival? The answer is very serious as well as very simple. It is because this amendment is so important, it so thoroughly undermines the constitutional authority of the President of the United States, so thoroughly undermines the negotiating posture of our diplomatics Geneva working precisively on this topic.

And would so disable our ability to conduct our strategic defense intitiative program, that we would find that the United States under a very serious disability, one that could cost us billions of dollars in savings that could otherwise be accomplished and one that, perhaps even more important, will cost us years in achieving the ability to go forward, as indeed we contemplate, by research, by development, and by testing, with actual deployment of the kinds of antiballistic missile defenses that will one day greatly enhance the safety of all the people of the world, to a day when it will be a reality, that we have achieved the dream of which the President spoke when in 1983 he asked the question, rhetorically, "How much better that we save lives than eliminate them?"

Mr. President, to respond to my friend from Georgia and his first question, the rhetorical question, he asked, "Do they really want to sacrifice the ships, the planes, the pay raises?"—no, we do not, and in fact, we will not. There will be legislation that provides all those things.

The question is, when will it come; and will it not come, as indeed it should, on a bill unadorned by this amendment? This amendment is not germane to the rest of what the defense bill is all about. It has no business being there. It is an arms control amendment. If it is going to emanate from a committee, let the Senate Foreign Relations Committee to bring forward this ill-advised premise in a freestanding bill, fine. Let us debate it. The President will veto that as well. There is no doubt about that. There are sufficient signatures on a letter to the President of the United States advising him that this veto will be sustained. That is why this provision is dead on arrival, wherever it is, but it should not be on this bill. If it appears at all, it should be in another piece of legislation.

We are not willing to forego all those good things that this defense bill will bring, and we will not do so; but neither will we allow those things to be held hostage to the imposition of this unwise amendment on the President of the United States and the people of the United States.

So the first reason to oppose going forward until that is completely understood is that the Levin amendment has no business being on the defense authorization bill.

The second reason is that the Levin-Nunn amendment is unconstitutional. It seeks to usurp the authority of the President of the United States, assigned to him exclusively by the Constitution, for the conduct of foreign policy, with the single notable exception that, obviously, the Senate of the United States is charged under the Constitution with the ratification of treaties made by the executive.

Instead, this legislation imposes a one-House veto on actions of the Presi-

dent in the conduct of foreign policy in the realm which it seeks to circumscribe, and one of those Houses may very well be the House of Representatives, to which no role is assigned by the Constitution; and in its omission to do so, it is not accidental.

The framers assigned to the other House the responsibility for the origination of revenue bills. They assigned to the Senate the narrow, clearly defined, reserved power of ratification of treaties entered into by the executive. But the framers—and the language of the Constitution itself—make it clear that it is the President who has the ability to enter into the negotiations leading to a treaty, to consumate that treaty with his signature, and if he chooses to, without benefit of action by Congress, to abrogate a treaty when he sees it as in the best interests of the United States.

My friend from Georgia said that the framers of the Constitution did not intend that we in these United States be governed by a government of kings. Quite true. The President is not a king. But neither did the framers provide, nor did they ever expect, that we would come to the arrogant time in which Members of Congress would seek to foist upon the American people by an imperial Congress—one seeking to arrogate itself those powers not given by the Constitution to Congress but given, instead, by that document to the President of the United States.

This is not an academic debate. The enactment of this provision, the Levin-Nunn amendment, into law would create a constitutional precedent of such serious peril to the conduct of our foreign policy and such serious peril substantively to the defense of the United States that it is not just unwise—it is no exaggeration whatever to declare it as what it is. It poses a grave peril, one that must be rejected.

The third reason to reject this amendment, dealing with its substance, is that it seeks to impose upon the President and the people of the United States an interpretation of that treaty, the ABM Treaty of 1972, that is not in fact a legally correct interpretation. We can argue about that. We can conduct a lawyers' entertainment and amuse ourselves and watch the eyes of the audience glaze over. It is, unhappily, a serious debate, because, depending upon its outcome, depending upon whether we choose to saddle ourselves with an interpretation unilaterally that does not bind the Soviet Union but does bind us, so that we cannot develop and test defenses against antiballistic missiles, if we engage in that kind of folly, then the legality of the interpretation is not academic. It affects not just that constitutional precedent of which I just spoke, but also, it goes to the very heart of our ability to keep this world safe in the next century.

Mr. President, the legally correct interpretation of this treaty is the so-called broad interpretation. It is the one that does permit the development and testing of defenses against antiballistic missiles, the most destabilizing of weapons in the nuclear arsenal, those missiles that can leave the Soviet Union and reach the United States, without recall, within 26 minutes. It is the interpretation that this administration has announced to be the correct one, and they are correct in doing so; because if you have looked at the negotiating record, as I have, I will tell you that it leaves no doubt that despite the most steadfast, earnest, conviction-driven efforts of the United States negotiators, despite their zeal to get an agreement with the Soviets on the narrow interpretation, they just plain failed, because the Soviets consistently and emphatically and clearly rejected any effort to bind them with a prohibition against development and testing of any so-called future or exotic systems, stating, "Who knows what the future holds?"

"No, it would be unwise," said the Soviets, "were we to agree to the kind of blanket prohibition that would take into account the development of new technologies that we may not even now suspect."

The Soviets understood very clearly that events might overtake that agreement, as indeed they have, not just the events embodied in their violations of that portion of the treaty that is clear and unambiguous, but they foresaw, because they have been earnestly at work trying to develop these very new possibilities themselves, that new technology without legal constraint might very well bring an entirely new array of options in terms of defenses against antiballistic missiles, so they steadfastly refused to be bound.

We did not get the narrow interpretation even though the U.S. negotiators strove mightily to get it.

Mr. President, it is a basic matter of contract law that it is what the parties agreed upon, the bargain that they negotiated, that defines the terms of a contract. It is not what some third party understands it to be, whatever the obligations of that third party. It makes no difference if in fact the Soviet Union did not agree to the interpretation that we have thought to be the meaning of that treaty. They are bound instead by what was agreed upon and where the text of the treaty, like that of a contract, is ambiguous upon its face you look to the negotiating record to find out what bargain was actually negotiated.

That is why I differ so markedly with my friend from Georgia when he places emphasis upon the ratification record. It should be secondary because it is not the best evidence. The best evidence of the agreement you would think would be the four corners of the document itself. But where there are distinct ambiguities, where there is ambiguous language, that must be explained by resort to what the negotiators actually intended the language to mean.

We could go into great detail and should about the fact that the Soviet Union has already violated the clear and unambiguous parts of this agreement as well as other arms control agreements and the fact that we should insist upon compliance before we enter into new negotiations or continue under old ones, but the basic point is that you do not send negotiators to negotiate a bargain for you and then say, by the way, here are our cards and here, by the way, we are taking these aces out.

I think that the President, if this were to pass, if his veto were to be overridden, would have no recourse but to call home the negotiators that we have sent to Geneva. Happily they can stay there and continue to work for us because there are sufficient signatures on that letter to guarantee that we will sustain a Presidential veto.

I hope it does not come to that. I hope that this ill-advised, remarkably ill-advised, however, well-intended, amendment never reaches his desk.

We now have Judge Sofaer's memorandum. I am glad we have it. I urged that the entire negotiating record be made declassified and public. But at the very least we have this which liberally excerpts the record as a part of his analysis and makes clear that the Soviets did reject the narrow interpretation which the Levin-Nunn amendment seeks to impose upon us unilaterally.

Let me just say, and we will go into this in much greater length, this is not academic. What it means, if we are required to accept this imposed false construction, is that the United States will lose billions of dollars and years of time and it goes right to the heart of our ability to conduct the SDI program.

Finally, Mr. President, let me just say that at the very moment when United States negotiators are in Geneva as a working group engaged upon the interpretation, the very issue, the interpretation of the Antiballistic Missile Treaty what in the name of God are we doing in the Congress of the United States undermining their position and according to the Soviet Union concessions which they are unable to achieve at the bargaining table with our negotiators?

It would be much better that we end this confrontation here on the floor of the Senate, that we make clear those who seek a robust strategic defense ini-

tiative program and those for whatever reason well-intended seek to undermine it, those who for reasons however well-intended are willing to undermine the historic role given to the President by the Construction, and, on the other hand, the much narrower role given to the Senate, it is much better that we make clear and resolve on this floor that we are not going to engage in the kind of undermining of our negotiators that seriously threatens the security of the United States. That is what this debate is all about, Mr. President, and for those who wondered why it is that those like me who have steadfastly urged that we spend enough of money, of time, of human resources, to be certain that we achieve the first duty of a democracy which is to survive, find myself allied with so many others having to vote against a defense bill, a good bill otherwise that contains this provision.

Let us make clear that if this amendment passes on the floor, if there are sufficient votes to impose cloture upon the debate on this legislation, we will have seen only the beginning of what is going to be a fight that will not end until it is clear that, however well intended, this kind of legislation simply cannot become law.

That is why this is so important, Mr. President. It is because it is so dangerous in so many ways.

So, Mr. President, I will hope that as time goes on this good bill, this otherwise good bill, is given passage, without the Levin-Nunn amendment and that we take on another day the time that should be given to the very serious subject embraced in the Levin-Nunn amendment. But let it be clear that our first interest is the security interests of the United States. That is why we cannot support the Levin-Nunn amendment.

Mr. President, I thank the Chair, I yield time to my colleague.

The PRESIDING OFFICER. Under the previous order, 20 minutes are now yielded to the Senator from Michigan.

The Senator from Michigan.

Mr. LEVIN. I thank the Chair.

Mr. President, I am very disappointed indeed that our colleagues are trying to block the Senate from debating the defense authorization bill. We worked many, many hours in committee to develop a solid defense program. This bill is designed to address some very serious deficiencies which the committee has investigated during the extensive hearings that we held this year.

I want to come back to some of the things that we did in this bill that are of critical importance to the security of this country. But, first, I am going to turn to what has been called the Levin-Nunn amendment, the language which is in the bill now. It is not an amendment. It is bill language, which the committee added, and the issue fundamentally here is whether the Congress of the United States will have a say in how SDI dollars are spent.

The issue is not which interpretation of the ABM Treaty is correct. We do not prejudge that in the Levin-Nunn language. Quite the opposite. The President has directed that a further analysis of the negotiating record and the ratification record be undertaken and will sometime in the future decide whether to apply a new, broad interpretation.

What the Levin-Nunn language in the bill does is preserve a congressional role, after the executive branch analysis and decisions are completed, in the expenditure of the billions of dollars that we are authorizing for SDI.

If we delete this language, we will be allowing the executive branch to decide unilaterally how to spend those SDI billions and we will be abdicating our responsibility relative thereto.

Many of us—I believe most of us—want to exercise the responsibility which the Constitution places upon us to decide how money is spent, not just how much money is spent. The bottom line is that the Levin-Nunn language preserves a congressional role without prejudging how we will exercise it, and, if we delete the language, we will be abdicating the responsibility which the Constitution places upon us to control the expenditure of funds, pursuant to the Constitution, the laws and treaties of the United States.

Will the President come along and say he wants to apply a broad interpretation of the ABM Treaty? We do not know. We do know this: the narrow interpretation has been in effect since the ABM Treaty was explained to the Senate in 1972 and ratified by the Senate.

Just as one example, here is an exchange which took place at the time that the Senate was told about this treaty and what it meant.

General Palmer was explaining to the Committee on Armed Services what this treaty meant. He specifically said at that time that futuristic systems could not be tested or developed in space.

Mr. WARNER. I do not want to interrupt, but I am quite interested. Would you give us the date in time?

Mr. LEVIN. I will submit that for the Record. I thought I had that.

Mr. WARNER. If you could give us the approximate time; I presume it is circa 1971, 1972.

Mr. LEVIN. It was during the Senate Armed Services Committee hearing on the ABM.

General Palmer, or June 19, 1972, precisely and very specifically, recommended to the Armed Services Committee the narrow interpretation, as we now call it, of the treaty and said that, in effect, the Joint Chiefs of Staff relied specifically on that approach to the treaty.

Subsequent to ratification, Mr. President, the arms control impact statements of both the Carter and the Reagan administrations repeatedly set forth the restrictive interpretation. For example, in 1985, the arms control impact statement expressly stated:

> * * * the Treaty allows development and testing of fixed land-based ABM systems and components based on other physical principles * * * The ABM Treaty prohibition on development, testing, and deployment of space-based ABM systems, or components for such systems, applies to directed energy technologies (or any other technology) used for this purpose.

Even the SDI office itself applied the narrow interpretation as late as 1985 in its report to the Congress.

Now some say we should simply give the President the untrammeled right to move to a new interpretation or not, as he sees fit.

Our Constitution provides for power sharing. But some argue we should give the President billions of dollars for SDI and let him decide on his own what to do with them.

Some say any congressional effort to exercise judgment on this issue would be tying the President's hands or pulling the rug out from under our negotiators. That rug and the rhetoric are threadbare. We have been told not to constrain the MX missile—that we would thereby pull the rug out from under our negotiators. We have been told not to cut the administration's annual SDI requests—that it would pull the rug out from under our negotiators. Well, we did both anyway and our negotiators are still standing firmly on a stable rug. Indeed, they are on the verge of entering into significant agreements with the Soviets and the administration admits we are powerful and strong.

Opponents say that the Levin-Nunn language gives the House of Representatives a one-House veto. It is not Levin-Nunn—it is the Constitution which requires both Houses of Congress to approve spending. The problem that some have is not really with the bill's language so much as with the Constitution which gives the Congress the responsibility to appropriate taxpayers' moneys. This Levin-Nunn language does not tie the President's hands or give the Congress any more authority than the Constitution provides: It preserves the congressional power to limit the way in which the President spends money. It is the Constitution which requires both Houses to approve not just how much is spent, but how Treasury funds are spent.

Some members of the administration are just panting to test ABM systems which violate the traditional interpretation of the ABM Treaty. Indeed, we recently read that Secretary Weinberger has sent President

Reagan a report proposing four new tests which would violate the traditional interpretation of the ABM Treaty. I ask unanimous consent that the article from the May 10, 1987 New York Times be printed in the RECORD.

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

NEW TESTS URGED ON MISSILE SHIELD

WEINBERGER REPORT CALLS FOR BROAD VIEW OF ABM TREATY

(By Michael R. Gordon

WASHINGTON, May 9—Defense Secretary Caspar W. Weinberger has sent President Reagan a report proposing four new tests that would violate the traditional interpretation of the 1972 Antiballistic Missile Treaty, Administration officials said today.

Building its case against a more restrictive view of the treaty, the Defense Department says in the report that the United States could save $3 billion by carrying out the four tests instead of holding to the current schedule of tests that seem to be clearly permitted in the treaty with the Soviet Union.

A TWO-YEAR DIFFERENCE

The report, which was not made public, also argues that information derived from the new tests would give policy makers more confidence in making decisions about whether to build anti-missile defenses. The report says the tests would cut by two years the time needed to develop President Reagan's Strategic Defense Initiative, known as "Star Wars," officials said.

The Pentagon study urges that the Administration adopt a plan to accelerate Star Wars deployment. One official who supports the defense initiative said the tests would allow the United States to begin deploying Star Wars in 1995 or 1996.

The President requested the Defense Department report on new tests that could be carried out, and new legal studies by the State Department, in February to help him decide whether the United States should stop observing the traditional interpretation of the ABM treaty and formally adopt a new broader view. The broader interpretation of the treaty would permit expansion of Star Wars to include new space-based tests.

Mr. Weinberger and other civilian Pentagon officials have been critical of the constraints imposed by the ABM treaty. The Pentagon report was expected to argue that there are benefits in abandoning the traditional interpretation.

Some Administration specialists disputed the Pentagon report and said its conclusions were not strongly supported by the analysis. They asserted that the traditional interpretation provided sufficient leeway for the development of Star Wars. They also questioned whether some of the new tests proposed by the Pentagon would be allowed even under the broader interpretation.

FOUR TESTS PROPOSED

The Pentagon study identifies four new tests, according to officials who have reviewed the study.

One of these is called THOR, which stands for Tiered Hierarchy Overlayed Research. THOR would be a series of experiments testing the United States' capability to intercept missiles and dummy warheads during the main stages of flight. Interceptions would be carried out using rockets that destroy their targets with the force of impact, rather than in an explosion. One Administration official, who supports the "Star Wars" program, said that the first of the experiments could take place as soon as next year.

In the second test proposed in the report, a submarine would fire a target missile carrying dummy warheads and possibly decoys. This experiment would test the use of space-based sensors and interceptor rockets. An official said that such a test could take place in 1989.

A third test is the Laser Integrated Space Experiment. In it, a space-based chemical laser would be tested in 1990, an official said.

In the fourth test, the sensor integrated discrimination experiment, a rocket would be fired from Vanderberg Air Force Base in California. A variety of space-based and other sensors would study whether warheads carried by this missile could be distinguished from decoys. Such a test could take place in 1990.

TREATY WITHDRAWAL POSSIBLE

Administration officials said the Pentagon report suggested that if the United States does not adopt the broad interpretation of the ABM treaty it would ultimately be forced to withdraw from the agreement to conducts its testing and development program.

"The basic message is that you have two choices: move to the broad interpretation now or withdraw from the treaty later," an official said.

Mr. LEVIN. Mr. President, we should understand that Weinberger has never particularly liked the ABM Treaty. On April 8, 1984, for example, he said on ABC television "I've never been a proponent of the ABM Treaty." As a matter of fact, he is in so much of a hurry to test in violation of the traditional interpretation that he is launching a program before the program managers are ready.

Just a few weeks ago, on April 1, 1987, the Defense Department official responsible for ensuring compliance of DOD programs with the treaty, Under Secretary of Defense for Acquisition Richard Godwin, told the Armed Services Subcommittee on Strategic Forces and Nuclear Deterrence that "all of the experiments now planned conform to the narrow interpretation or the restrictive interpretation." He indicated that he had just started the process of determining what tests would be permitted under the broad interpretation. Godwin told us that he could not make the assessment until after a policy decision was made defining the term "other physical principles." At the same hearing, when asked how he could reach a judgment as to what tests would be permitted under the broad interpretation that were not permitted under the narrow interpretation in the absence of such policy guidance, General Abrahamson admitted that is "a fundamental problem." Well that guidance, as far as I know, has not been forthcoming since that hearing in early April and yet we have the Secretary of Defense already reaching conclusions that his program managers could not reach as of a few weeks ago. What he is saying is: Forget the policy guidance, we just can't wait, we're so hot to undermine this treaty.

Just last year, General Abrahamson said he could readily proceed to do SDI research under the traditional narrow interpretation. He told the Senate Armed Services Committee: "The entire test structure has been planned in accordance with the restrictive interpretation of the treaty."

Now we are told that unless the treaty is reinterpreted it will cost us billions of dollars. It is obvious we are seeing an effort to get Congress to throw in the towel and say to the administration: It's all your decision, we abdicate our responsibility.

Now, I am confident we are not going to do that, that we are not going to abdicate that responsibility. This bill language preserves it. It does not exercise it. It does not decide which interpretation is the correct one. It preserves the obligation in writing of the Congress to appropriate funds and to set limitations on those authorizations and appropriations.

The Constitution is the problem which the opponents of this language have because it is the Constitution which gives the Congress the responsibility—the sacred responsibility, because we all took an oath—to authorize and appropriate funds pursuant to the Constitution, laws, and treaties of the United States. We understand that we simply cannot abdicate that responsibility, and if we simply write a check to the SDI Program for $3 or $4 billion or whatever the final figure is without preserving a role on how that money is spent, then we will become a party—we, the Congress—to a possible violation of the law of the land, which the ABM Treaty became when it was ratified pursuant to our Constitution.

Mr. President, I indicated before that there were a number of important things which this bill did.

I ask the Chair about how much time I have left so I will know how to outline these provisions.

The PRESIDING OFFICER (Mr. CONRAD). Seven minutes and 18 seconds.

Mr. LEVIN. Mr. President, as I indicated, I am disappointed by the position of some opponents of this bill language to block the entire defense authorization bill from being debated because of this language. I indicated that this bill provides the solution to many serious deficiencies which exist in the Defense Establishment and which are necessary to the security of the United States.

My colleagues on both sides of the aisle joined me on the Conventional Forces Subcommittee, for instance, to reject the plan of the Department of Defense which prematurely terminat-

ed the major component of the Army's modernization program.

The Chief of Staff of the Army testified that only a third of the Army has been modernized, yet the budget proposes termination of the most important weapons that make up that modernization program.

This modernization program is all the more important in light of recent proposals to remove short- and medium-range ballistic missiles from Europe. And while we should welcome that program that INF proposes, it does increase the requirement to address conventional imbalances. Our bill, which is jeopardized by this filibuster, makes a major step in addressing some of those conventional imbalances by keeping the Army's modernization program on track.

Yet this key initiative is being threatened by this filibuster.

Another example of deficiencies concerns Navy aircraft, and especially the modification accounts. The Navy's budget request seriously underfunds several key programs.

For example, the most important aircraft in a battlegroup is the E-2 early warning aircraft. It is the airborne eyes and ears for the fleet. Last year the Navy found wing cracks in the E-2. The problem is so serious that a fourth of the fleet is currently grounded.

Incredibly, there is not a penny in the budget request to start a rewinging program for the E-2. Our bill starts that rewinging program.

Another example is the A-6 rewinging modification program. Right now a third of the A-6 medium attack aircraft are grounded or are on restricted flight status because of wing cracks. Last January the wings literally fell off an A-6 while in flight, killing the pilot and navigator. The Navy negotiated a multiyear contract to install new wings. But the budget as submitted underfunded this account so severely that it would terminate the multiyear contract.

Our bill corrects this critical oversight and provides sufficient funds to carry forward the A-6 rewinging program at the maximum rate specified in the contract.

Let me give you another example. Last year the Congress provided sufficient funds to buy 12 EA-6B jammer aircraft for the Navy, at an average cost of $37 million. This year the Navy cut back the production rate from 12 to 6 aircraft, and the unit cost increased from $37 million to $60 million. That is a 62-percent increase in cost because of the stretchout. Our committee decided to add an additional six aircraft. The extra six aircraft cost an average of $25 millon each. By correcting this stretchout we save hundreds of millions of dollars.

And all of this is being threatened by the filibuster. These actions illustrate the way our bill addresses serious conventional deficiencies in our defense program. We did not solve all of the problems, but we made several important first steps.

And this filibuster places all of this in jeopardy. I do not know of an instance when fear of debating a single issue has led the minority to deny the entire Senate the right to consider a very constructive defense bill.

Our colleagues are not protecting anything by this action because the provision that they dislike will continue to be raised. This issue is going to continue to be raised until the issue is fairly debated and resolved. Rather, what they are denying is the much larger number of critical reforms and corrective actions that we have incorporated in this bill. I know that they wil say they are not against the bill. Rather, they support it except for this one provision.

Mr. President, there are a lot of items in the bill that I personally object to. Frankly, I felt very deeply about some of these items, including some of the nuclear items where I felt we were putting too much emphasis on more and more redundant nuclear systems at the expense of our conventional capability and readiness. I tried to do something about that in committee markup. On some issues I won, and on some issues I lost. That is the legislative process. But to deny the Senate the right to debate and consider the provision just because we object to one or more of those provisions is a very different kettle of fish.

Mr. President, finally, it has been said here that parts of the negotiating record are being made available today; other parts of the negotiating record may be available and may be declassified by the State Department at some later date.

I am glad that is going to happen. I think the entire negotiating record is going to have to be declassified here if parts of it are going to be, and that is going to lead to all kinds of problems for future negotiations for reasons which Senator NUNN has stated.

But one final point, Mr. President, that I would hope that my friends on the other side of the aisle would understand.

Our negotiators, who represented this country in good faith—represented a Republican administration as it happens, but it could have been a Democratic administration as well—are now being accused of misrepresenting what they achieved, or of being incompetent. Fifteen years later serious allegations are being made as to what those negotiators said then, and have consistently said about those negotiations.

I have asked Judge Sofaer to invite those negotiators to review the negotiating record. Give them a chance to defend themselves. Challenge them as to how they reached the conclusions that they did. Do not just say 15 years later that these neogitators did not achieve what they thought they did, and that they misrepresented to the Senate and the country in the 15 years since what they accomplished. Give them a chance to defend themselves. Invite them in.

The PRESIDING OFFICER. The Senator has spoken for his time.

Mr. LEVIN. I thank the Chair.

I ask unanimous consent that I be allowed to proceed for 1 additional minute.

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

Mr. LEVIN. Mr. President, I asked Judge Sofaer in my office whether he would do that. He finally said he would. I do not think he has. I do not know that for sure. But I do not think he has, because as recently as today when I talked to one of the negotiators, he had not yet been invited. I would urge my colleagues on both sides of the aisle that we should be united in this. When we send negotiators out there to negotiate an agreement, we ought to stand behind them at least to the extent that, when we challenge their conclusions 15 years later, we give them an opportunity to answer the questions, to see the record, to walk through it, and to explain how they reached the conclusions they did. I think we owe them a lot more. I think we owe the people who negotiate for this country a lot. But the least we owe them is that. I do not think that has yet been done. The strategic subcommittee has indicated it would ask Judge Sofaer to do this. I have asked Judge Sofaer to do this, and he agreed to in my office. I would hope, as much as we disagree here on this language, that we would be united in urging this administration to bring in these negotiators.

The PRESIDING OFFICER. The Senator has spoken for his additional minute.

Mr. LEVIN. I thank the Chair.

I yield the floor.

Mr. WARNER. Mr. President, my understanding under the unanimous-consent order is that the Senator from Indiana will now be recognized. Mr. President, I wonder if I might direct a statement to the Senator in the form of a question so that we can stay within the unanimous consent request. I would first say, Mr. President, I think we all agree that the distinguished Senator from Michigan has made a very valuable contribution in helping to frame this debate today. And I commend him although I disagree in some areas.

Mr. President, I want to encourage other Members of the Senate to come forward this afternoon such as we can put together a composite record and frame for others to follow on the

nature of this debate. It would be my hope that others would come, and seek recognition this afternoon. This Senator to the extent I can will certainly convenience other Members here to state their point.

Mr. LEVIN. Mr. President, I wonder if my friend from Virginia would yield for 30 additional seconds so I can read into the record that portion of the ratification proceeding that I did not have at hand before. It would take me 30 seconds to do that.

Mr. WARNER. Mr. President, I do not have the floor.

Mr. QUAYLE. Mr. President, I ask unanimous consent that the Senator be allowed to read that into the record, and that I also be allowed to be recognized for the full 20 minutes.

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

Mr. LEVIN. The portion of the ratification proceeding was the following.

General Palmer representing the Joint Chiefs, said:

> We can look at futuristic systems as long as they are fixed and land-based.
>
> Senator JACKSON. I understand.
>
> General PALMER. The chiefs were aware of that and had agreed to do that and that was a fundamental part of the final agreement.

I thank my friend from Indiana.

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana is recognized for 20 minutes.

Mr. QUAYLE. Mr. President, first let me say that the authors of this amendment, Senator NUNN and Senator LEVIN, are two people I have a deep respect and appreciation for, for their hard work, candor, and endurance in the Senate Armed Services Committee. I have worked with them over the course of the years and have come to appreciate their understandings, insights, and capabilities.

However, I think it is important that we point out where we are right now, how we are going to proceed, and to get into some of the significant issues in dispute.

Unfortunately, in the Senate Armed Services Committee, the vote on the defense authorization bill was almost along party lines, Democrats voting in favor and the Republicans, with the exception of one, voting against it. That is the first time in the almost 7 years that I have been in the Senate that I have seen that committee, which operates in a very bipartisan manner, be so divided on a fundamental issue.

I think that division in the committee was pretty well reflected on the floor earlier today when we got into a very protracted parliamentary situation, with a number of votes on procedures. Those on this side felt that the majority, in this particular case, was trying to run roughshod over minority rights. Now we are debating this bill on a motion to proceed, on which there will be extended debate, which is the right of the minority.

I think this is unfortunate because at times I am sure that tempers will get short, emotions will run high, and that we will have a rather spirited and contentious debate on this issue, and it is probably not going to end this week or next week, but it is probably going to run all summer, probably into this fall because there is a very earnest desire on this side to give the President some breathing room on negotiating arms control.

I think on these prickly arms control issues, it's going to be a very long and hot summer for the Senate.

Because this is where we find ourselves now, it is important that we address the issues that are confronted in this piece of legislation, in the Nunn-Levin amendment.

I believe I can accurately describe the emotional concerns each side has with this amendment.

The concern of the proponents of this amendment is that the Senate in 1972 heard some statements that gave some support to the so-called narrow interpretation; that not the negotiators, but some in the Department of Defense, came forward and in response to a couple of Senators, two at the most, answered their questions in such a way that would lead one to perhaps conclude that there was, in fact, a narrow interpretation in testing and development of futuristic systems and restricting these activities to fixed land-based systems.

So the emotional concern of the proponents focuses on the Senate ratification hearing record.

There are some, like myself, who dispute that these hearing statements are all that conclusive. I do not think they prove as much as the proponents would argue.

The other emotional concern, I think, of the proponents is subsequent practice. They have cited that the Nixon administration, the Ford administration, and the Carter administration all complied with the so-called narrow interpretation, and, that therefore, this administration is the one that is changing course.

I think they are saying that they do not want to change course and, that therefore, they are willing to go into what I think are untested waters to force their interpretation of a treaty that was passed in 1972.

On the other side, Mr. President, I think the opponents of this legislation also have very strong concerns as well. They are opposed very strongly and strenuously to this legislation because of its impact on the executive branch and on the executive branch in its negotiations with the Soviet Union.

It is felt very, very deeply, Mr. President, that this issue that is before us, that this amendment if passed, if it becomes law, would, in fact, be very harmful and detrimental to our negotiators.

I do not believe any of the proponents will stand up and say this amendment is going to help our negotiations. I think at best they could say is that perhaps it will not have that much impact. But I can tell you those in the administration and those who have to sit down and go eyeball to eyeball with the Soviet Union day in and day out feel very strongly about this and feel that this would be an impediment and would be harmful to our negotiations.

The other reason I and other opponents will go to such lengths to extend debate on this defense bill, and even to put ourselves in the unenviable position of having to vote against a defense bill is that this legislation would allow 51 percent of one House and, perhaps not even the Senate, to reinterpret a ratified treaty even though the authority to interpret and implement a ratified treaty clearly resides in the executive branch.

I believe that we are, in fact, treading on constitutional waters that we have never explored before. I am sure that constitutional lawyers, esteemed constitutional lawyers, will disagree, perhaps, on whether this amendment in fact is an infringement upon the constitutional powers of the executive branch's executive power to interpret and execute treaties.

Clearly, the Congress of the United States has the power of the purse, and clearly the Congress of the United States can, by line item, say we are not going to spend money for this or that particular program.

This amendment does not do that. This amendment is predicated and based upon a single interpretation of the ABM Treaty and how that treaty is going to be implemented. It assumes that Congress can block the Executive from implementing any other interpretation with no more than a 51-percent vote of either the House or the Senate.

I would think from an institutional point of view that some Senators might think once or twice or maybe even three times before they casually support and vote for this kind of amendment, because what we will be doing will be inviting, in future debates upon treaties and the implementation of the treaties, or perhaps even the ratification of treaties, the House of Representatives to be somehow an equal partner in such business. I think the Constitution clearly vests the responsibility and the constitutional authority with the U.S. Senate. This is something that many of us feel very strongly about.

Also, the opponents of the Nunn-Levin amendment feel very strongly about going back and looking at that negotiating record, because they be-

lieve it is quite clear that although the United States position in negotiating was to try to get the so-called narrow interpretation we failed to get it because the Soviets rejected that narrow interpretation. That is why Agreed Statement D was put into the treaty, as a compromise. The Soviets did not want anything. The United States wanted the narrow interpetation and we come with Agreed Statement D that allows testing and development but does not allow deployment of strategic missile defenses based on other physical principles.

These are the general concerns and over these next few days we will be getting down to many of the particulars and do so at length of course, many will be standing up in these next days saying, "Gee, let's get on with the defense bill, we are paying for the Army, the Navy, the Air Force, and Marines." They may even mention Grissom Air Force Base in Indiana or Fort Benjamin Harrison or a few other things that might be of concern to the Senator from Indiana.

I do not know but they could be brought up. Why would I be interested in stopping something that is going to be going back home? I am not interested in stopping things going back home but there is a very, very fundamental disagreement on how this defense bill ought to be going forward.

Let us look at our arms control negotiations. Many of us ask, particularly at this particular time, why do we want to say to our negotiators, who are currently negotiating over the interpretation of the ABM Treaty, what the Congress thinks it is in binding law. Many of us feel at this particular time that this is not pulling the rug out from under our negotiators; it is basically sticking a knife in their back. They are over there confronting the Soviet Union in negotiations, in the space and defense area, dealing with what, in fact, the ABM Treaty interpretation is going to be now and what the interpretation of the ABM Treaty is going to be in the future.

Now, I realize that there is a perception perhaps inside the beltway and even outside the beltway that this President and the executive branch has been weakened over the course of the last several months, with the revelations of the Iran and Contra affairs. We have a special prosecutor, we have a special committee investigation ongoing. There is no doubt that the executive branch has not been strengthened. How much it has been weakened, we will have to wait to see, but I think it is clearly the perception certainly in the Halls of Congress that the executive branch has been weakened. At a time when the executive branch has been weakened, I think it is natural that a coequal branch of Government, in this case the Congress, might in fact want to try to change a careful balance of power that our Founding Fathers instituted and be able to usurp some of that power from the executive branch.

I think it is probably far more tempting to tie the President's hands or to see an erosion of his latitude and flexibility as the President negotiates with the Soviet Union when he is weaker rather than when he is stronger. But I can tell you that if, in fact, these types of amendments persist—and we just heard the chairman of the Senate Armed Services Committee state very forthrightly—and I think he is right—this issue is not going to be concluded in May. It is going to be on bills in June and July and August and September and October and November, probably December. We may be here Christmas debating that. We may not.

But clearly, if the President is going to have to continue these negotiations with the Congress on what he can and cannot do in Geneva, at some point we are going to have to have some sort of resolution. It probably is not out of the question that the President may have to consider bringing home our negotiators to sit down with those in Congress who would like to be the negotiators and perhaps would like to be President and have a meeting of the minds because it is going to be very difficult to continue to proceed. But I think as we look at this issue there is no doubt that the negotiations and our negotiators suffer.

The question of congressional encroachment upon an executive responsibility goes to the interpretation and the implementation of a treaty. The way this amendment is crafted, what we, in fact, are doing is basically having the Congress of the United States saying here is what the interpretation of the ABM Treaty is, and if you are going to change that, your funding is going to be subject to a denial by a one-House veto. Either the House or the Senate on a vote could deny the President the right to interpret and to move on that treaty.

Now, there is no doubt that the Congress of the United States has the power of the purse. The Congress of the United States, if it wants to take its line and say, "No funds are going to be spent for a program that the administration has requested," so be it. That is the normal legislative procedure.

We have heard a lot of discussion by many Senators and Congressmen and our allies saying, "What we need is consultation. We need to have consultation before we decide to move from what has been the narrow interpretation to a broad interpretation." And the administration, to its credit, said, "OK, we will have consultation. We will have elaborate consultation. We will be willing to sit down with you and go through this item by item if, in fact, we decide to move to a broad, or the legally correct interpretation. We will consult with you."

And now all of a sudden this amendment is saying, "We don't need any consultation. Our minds are made up. We know what that interpretation is. Forget about consultation."

So on the one hand people are saying, "Let us consult with the administration." The administration says, "Fine, we will in fact consult." And then all of a sudden we do a 180-degree turn and say, "No, we don't need to consult. We are just going to unilaterally interpret what the treaty is going to be."

Well, that is fine. If that is the way you want to proceed, let us not hear any more cries of consultation. Let us not hear, "Let's get together, we have to consult on this." And if, in fact, we are going to make a decision to move from that narrow interpretation of what we think is the legally correct interpretation, we will have extensive consultations.

But unfortunately, the way it stands now, the Senate—in fact, if there are 51 votes for this amendment, there is no use to consult. I think that in and of itself is a breach of faith. I do not think we can have it both ways, Mr. President. So I hope we do not hear any more cries for consultation when the Congress has apparently decided that they do not need any more consultation.

Mr. President, as we look at this issue, underneath it, deep down, the question is how are we going to proceed with the strategic defense initiative. Now, there are some in this body who I am sure are opposed to the strategic defense initiative. I am not. I am very much in support of it. And I believe that sometime, someday, despite what this Congress may or may not do this year, we will see the deployment of a strategic defense system in the world. In the future, Mr. President, I think you will see a reduction of offensive forces, a reduction of strategic offensive force, and a rather significant basis put forth in our START proposal and the beginning and the introduction of strategic defenses. Strategic defenses coupled with offensive reductions, I think, are what we will see in the future.

Mr. President, if, in fact, Congress is going to unilaterally interpret the treaty and say that we are going to have the narrow interpretation instead of the legally correct interpretation, I can guarantee that you are forcing a decision upon the President.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. QUAYLE. Mr. President, I ask to proceed for 2 additional minutes.

Mr. WARNER. I would have no objection. I want to make certain that at

the expiration of that time, I continue to retain the floor.

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

Mr. QUAYLE. Mr. President, the orderly process in going forward with the strategic defense initiative is to have research, to have testing, to have development, and then you are going to deploy. At what time are we going to have deployment? I cannot answer that question. I think it is going to be earlier rather than later. The Secretary of Defense thinks he can have it as early as 1994.

However, if we insist upon a narrow interpretation, I can tell you that the President, whether it is this President or the next President, will have to make a very fundamental decision on the withdrawal of the ABM Treaty much earlier than if we had the legally correct interpretation.

I am not so sure that some of those who support the Nunn-Levin amendment really want the President to be put in the position of withdrawing from that treaty. Some attach a lot of importance to the treaty. Frankly, I think the treaty has served a useful purpose, and that useful purpose has simply been overtaken by technology. But that is the natural evolution of proceeding with this strategic defense initiative.

Mr. President, in the coming days, we will be outlining particulars of what the negotiating record did and did not say, what the ratification record did or did not say. I think we will have a very spirited debate. It will be a very lengthy debate. But make no mistake about it: This issue is important to many of us, important enough that we will take time and spend our energies to make sure that a defense authorization bill does not reach the President's desk with these types of amendments, which we think are injurious to national security and injurious to the President of the United States.

Mr. WARNER. Mr. President, I see that we are joined on the floor by a distinguished member of the Armed Services Committee, the Senator from Illinois [Mr. DIXON]. I think it would be our mutual hope that many of our colleagues, possibly members of our committee, on both sides of the aisle, could join in this very important debate, even though it is in the nature of a debate on opposing the bringing up of the bill.

However, we have been joined this afternoon by the distinguished Senator from Pennsylvania [Mr. SPECTER], and therefore, I again propound a unanimous consent request, that the Senator from Pennsylvania be granted 20 minutes, at the conclusion of which I would continue, as before, to retain the floor.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Mr. President, reserving the right to object, as I had discussed with the distinguished ranking Member, I may want more than 20 minutes. I am the only Senator on the floor seeking recognition. I would like not to be bound by that time. Say, 30 minutes.

Mr. WARNER. Mr. President, I am quite anxious that we be equitable about the time allocation on both sides of this issue. I wonder if the Senator from Pennsylvania would be agreeable to the unanimous consent request, and then, at the expiration of the period stipulated in the unanimous consent agreement, we will ascertain what other Senators wish to speak and how much additional time the Senator from Pennsylvania might desire, and see if we can arrange an equitable solution.

Mr. SPECTER. Rather than take 10 minutes in this dialog, I would agree to proceed for a few minutes more, if that is acceptable.

Mr. WARNER. If the Senator would agree to the unanimous consent request I have just propounded, I think we have reached that conclusion.

Mr. SPECTER. That is satisfactory to me.

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

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I oppose the motion to proceed because I believe that the Senate is not yet ready to proceed to the consideration of the Department of Defense authorization bill. There are material questions outstanding that we need answers to before we can proceed to this issue.

The distinguished ranking member of the Armed Services Committee has referred to his committee as having the dominant role. That may be so in a sense, since we are today considering the authorization bill reported by the committee. But there are other committees having a very significant interest in this amendment, and one of those committees is the Judiciary Committee, on which I serve, and the Constitutional Law Subcommittee, of which I am ranking member. There have been a series of hearings before the Judiciary Committee and the Foreign Relations Committee, sitting jointly, which are not yet concluded. We are in midstream. Another hearing is scheduled for Tuesday, May 19. Doubtless, additional hearings will follow.

This is a very complicated subject, and I believe that we are not yet ready to consider the Department of Defense authorization bill, which has as an integral part this issue raised by the Levin-Nunn amendment, which relates to ABM testing in outer space.

Earlier today, this body saw a rather unusual proceeding. I have seen none like it in the 6 years plus that I have been here. But I submit that it was an important proceeding, because the issue that is paramount is whether we should proceed at this time, and it may be that this body will decide that we are not yet ready to proceed.

That sequence this morning, I think, was a perfect illustration of the old adage that there are two things you do not want to see made—sausage and legislation. I think that, especially with televised Senate debates, that was a proceeding not to be observed, from many reasons. But it was pressed on this side of the aisle because there are many of us who believe that whether we should proceed or not, is the critical issue at this time and should be decided first.

Mr. President, not only are there hearings in progress on this issue before the Judiciary Committee and the Foreign Relations Committee, but also, there are Senators who have participated as principals in this debate who have not yet filed papers that document their positions. I refer to the distinguished Senator from Georgia, the chairman of the Armed Services Committee, who, about 2 months ago, made a presentation on the Senate floor in three parts: the ratification record; the negotiating record; the subsequent practices of the parties.

As to the negotiating record, Senator NUNN said that he would file a detailed statement of analysis, but that statement has not yet been filed. I have asked Senator NUNN about that matter repeatedly over the course of the past 2 months and again on the floor today. He has not been able to complete that work because of the press of other business, and I think in part because of the complexity of the issue on the negotiating record.

Senator NUNN advised that he would have it filed by Friday of this week, or Monday at the latest. I am anxious to see Senator NUNN's detailed analysis, because the negotiating record, which is available in S-407—a secret room where deliberations cannot be overheard—is a long record. This Senator has taken some time to study that record. It takes a long time to study it in detail.

Senator NUNN has not yet filed his paper on the negotiating record. I believe that ought to be available to Senators before we are called upon to decide issues comprehended within the Department of Defense authorization bill.

There is also a voluminous analysis which has just been made available today by Judge Sofaer with the release time of 2 p.m. It is a document of several hundred pages analyzing the treaty and the negotiating record and also analyzing the ratification record.

There has not been time to evaluate that document.

Mr. President, there is also a substantial body of additional information which has not been made available to the Senate on subsequent practices of the parties. Senator NUNN, who as of this moment has filed the most detailed analysis of this issue, has stated in his second paper, which was very short, that the subsequent practices of the parties could not be ascertained reliably because so may of the records have not yet been made available.

What has been referred to in the debate today about the declarations of the parties since 1972 are very brief, very cursory statements in agency reports concerning their interpretation of the ABM Treaty. But the real documents which bear on subsequent practices of the parties involve the interaction between the United States and the Soviet Union, and those records are not yet available.

This Senator, as well as other Senators, has been pressing the administration to make those records available.

I would say candidly that I personally am not satisfied with the speed of the administration in making records available. I have had assurances that very important records on subsequent practices of the parties will be made available shortly in S-407 and, according to the representations which have been made to me, they will shed considerable light on the correct interpretation of the ABM Treaty.

So for all those reasons, Mr. President, I would suggest that the Senate is not ready at this moment to consider the important issues which have been debated here today, preliminarily.

The distinguished Senator from Michigan, Senator LEVIN, made a reference to the ratification record, and I do believe that there are portions of the ratification record which lean toward the narrow interpretation of the ABM Treaty.

But I would caution that no firm conclusion be reached on the basis of what we have heard about the ratification record for a number of reasons. One reason is that the ratification record involves a relatively limited number of Senators. The ratification record also has some problems which this Senator is trying to analyze regarding its integrity. In reviewing the ratification record, I find that there were some portions which were not transcribed in a verbatim manner but were edited to incorporate subsequent additions. I believe it is very important, Mr. President. This proceeding is a good time to focus on the issue of the integrity of records in our hearings. They ought not to be edited; they ought to be transcribed exactly as the words are spoken.

Recently, I sought to obtain a record of a hearing on April 26 containing my questioning of Mr. Graybeal. When I finally got the transcript 2 days ago, I got only the portion with my questions. I then made the inquiry about the questions of other Senators and was told that no one can have access to another Senator's questions until that Senator has had an opportunity to review the record.

If that raises an inference of modification of the record, I will say that it is a very serious matter. We all do recognize that from our presentations on the floor of the Senate are subject to some modification, but, as I understand it, only as to grammar—should any Senator make any grammatical mistake or perhaps as to syntax or sentence construction. But those of us who utilize that opportunity ought not to make any substantive change.

But I would suggest, however, that where we have a hearing transcript there ought to be no change at all because that is not what a Senator is saying. But there ought not to be any change. It is like a court record. A court record is inviolate and has to have integrity. Thus, the stenographer transcribes it just as said and it is reproduced.

I am not suggesting the integrity of the ratification record is substantially impaired, but that it is something that has to be analyzed carefully before firm conclusions are drawn.

Mr. President, the principal issue that arises from the ratification record is that it is not conclusive. At most, it represents what the Senate acted on that is very important but it is not determinative. When a treaty is entered into between the United States and the Soviet Union, it is a text of the treaty and the intent of the parties that governs. Where you have the executive branch, for the United States, and Soviet Union officials for the U.S.S.R., entering into a treaty after negotiation, that is the paramount document. After that treaty is signed as the ABM Treaty was, then the matter comes to the Senate for ratification.

The suggestion has been made, and I am not prepared today to say one way or another whether it is right because my study is not completed, that the materials presented to the United States Senate were different from the agreement made between the United States, with the executive branch acting for the United States, and the Soviet Union.

It is an issue of substantial constitutional importance if the executive branch entered into a treaty with the Soviet Union which differs from what the Senate ratified.

This was the subject of an extended hearing before the Judiciary Committee and Foreign Relations Committee. We had three professors who testified on the subject. Senator NUNN also testified, and this Senator and Senator NUNN had an extended discussion as to what the import would be.

But I think it is plain that for the ABM Treaty to be binding on the United States, it has to be binding on the Soviet Union. If the United States, with the executive branch acting, and the Soviet Union agreed on treaty A and B was submitted to the United States Senate for ratification, treaty B would not be the operative treaty.

Certainly, the Soviet Union would not be bound by something to which it was not a party, if something different was submitted to the United States Senate. If the Soviet Union is not bound, then can the United States of America be bound? Probably not. But that is a question which is going to have to be analyzed.

It may turn on the specific facts and precisely what review of the negotiating record will show.

I would suggest, Mr. President, that there is a great deal of material which has to be analyzed with considerable care before this body would be prepared to make a decision on this issue.

Having been a practicing lawyer for some 31 years and having spent a considerable amount of time on constitutional questions, including work on the Judiciary Committee for the past 6½ years, I say these matters are really of tremendous importance.

Mr. President, I think that it is critical to focus on the context of this issue because of the tremendous practical importance of what we are considering here today. The strategic defense initiative and the Antiballistic Missile Treaty may well prove to be the cornerstone of congressional action for 1987 on defense.

If we are bound by the ABM Treaty not to test in outer space, so be it; if that is our obligation, then the United States ought to observe it.

I agree with those who have spoken here today that it would not be wise for the United States to abrogate the ABM Treaty. But before we reach a conclusion that we are bound by the ABM Treaty not to test in outer space, we ought to be sure that we know what we are talking about. It may well be that those tests are necessary if there is to be a meaningful evaluation of the strategic defense initiative.

I agree with the distinguished chairman of the committee, Senator NUNN, and the distinguished Senator from Michigan, Senator LEVIN, when they say that Congress has a vital role on how much to spend and how to spend the money, and it may be that the strategic defense initiative is unrealistic.

I am inclined to think that it is worth pursuing, but it would be well within the power of the Senate and the House to consider the issue as to

what tests can usefully be performed. Some have contended as has been reported in the media that the strategic defense initiative is impractical. My own thought on the subject is that SDI is worth exploring for two fundamental reasons: One, it may prove to be a success, and second, it has had a powerful influence for the good on negotiations with the Soviet Union.

I believe, Mr. President, that it may turn out to be possible, although it is difficult to fathom a total defense system for the United States, but it is possible. I think back to 1945 and the statement of Vanevar Buch, the leading scientist of his day, that it was not possible to have intercontinental ballistic missiles. That it what Vanevar Buch said in 1945, and now we know how many ICBM's there are.

In 1965, 20 years later, Secretary of Defense McNamara said that the United States was so far ahead of the Soviet Union on ICBM's, they could never catch up with us. We know what has happened. The Soviet Union not only caught the United States, but has surpassed the United States.

Then there is the story, perhaps accurate, perhaps apocryphal, about the man in the Patent Office around 1870 who quit because there was nothing new to be discovered.

Scientific technology has wonderous reaches. If it is possible to create a strategic defense system which works, then I think we ought to be exploring that.

In cautioning the U.S. Senate not to rush to judgment on this legal issue today, I do so as one of the Senators who did not vote for maximum expenditures for SDI in the 99th Congress. I am not sure where my vote will be cast when we finally get around to deciding what the new level of expenditure ought to be. The administration has asked for $5.7 billion. This committee has reported $4.5 billion. The House yesterday voted with $3.1 billion, acknowledging in the House that this was a negotiated figure.

But I have grave reservations about $4.5 billion, frankly, as the committee reported to the floor. But I do not think the issue is how much money are we going to spend. But I do approach this issue with the predilection for unlimited expenditures by the Department of Defense on SDI.

If this body wishes to take up the question of whether SDI is realistic, I think that is a very important issue to be debated on this floor. Whether we ought to invest in it and debate the scientific issues and evaluate that, that is an area where I am not an expert. Constitutional law, I think I do have some experience in.

When Senator NUNN and Senator LEVIN say this body has a role to decide how much money should be spent and how it should be spent, I agree with those assertions. But I do not believe that we should artificially limit the expenditures in a way if we are not bound to. I think that is precisely what has to be decided here.

I am very much concerned about expending billions of dollars on the strategic defense initiatives if the reports are true that a great deal of money will be wasted by adhering to the narrow interpretation. Now, again, if the narrow interpretation is mandated by the ABM Treaty, so be it. But if it is not, this Senator does not want to waste $1 on tests which are unduly restricted and not required by our legal obligations.

I have seen the reports that, if we stick with the narrow interpretation, there will be great delays on the development of the strategic defense initiative. Now, if they are mandated by our legal obligations, then so be it. We will accept those limitations. But if they are not, I do not think we ought to assume those limitations.

Mr. President, I have spent considerable time in the review of the negotiating record and I believe it is very complicated. I have spent considerable time on the ratification proceedings, and, again, it is complicated. With respect to the subsequent practices of the parties, we are going to have to see more documents on that matter.

But I do believe that there is a significant practical effect of what this body does on what may be happening in Geneva. On February 28, March 1 and 2, I was part of a Senate delegation, along with the distinguished ranking member from Virginia, Senator WARNER, attending the Geneva talks. There is no question that the United States negotiators in Geneva—and Senator WARNER can confirm this—are very much concerned about their negotiating posture if the Congress mandates a narrow interpretation of the Antiballistic Missile Treaty.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Pennsylvania has used all the time that has been yielded to him.

Mr. SPECTER. Mr. President, with a hand signal from the coach, Senator WARNER, I ask unanimous consent to proceed for 5 more minutes.

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. SPECTER. The negotiators at Geneva were very emphatic about their concerns that their power not be short-circuited.

Mr. President, I think there can be no doubt that the whole context of international negotiations on arms control has changed materially since the strategic defense initiative came into the picture. I attended the sessions at Geneva in 1982 and 1983, the talk was on INF and the talk was on START and those arms talks were going nowhere.

A great deal happened in late 1983. The Soviets walked out and finally the Europeans deployed. And now the whole tone has changed because of the strategic defense initiative and there is real interest on the part of the Soviet Union now for arms agreements.

Mr. President, I think we have to be very wary as we approach the Soviet Union. We do not know of their motivations. But I think we have to proceed with arms talks to see if we can find an arrangement which makes sense from the point of view of the United States and which is subject to verification.

I think the American people have confidence in our President. He is not going to make a bad deal just to make a deal. And I know that this body will not ratify a treaty just to have an arms deal. It is going to have to be an arrangement which makes sense for the United States.

But I am concerned about public opinion polls that the Europeans have more confidence in Mr. Gorbachev than they have in our own President. So that I think that it is important for the United States to proceed as we are now in what I think are good-faith efforts to have arms reduction. But there is no doubt that the Soviets are being motivated by the presence of the strategic defense initiative, and unless we are obligated to follow the narrow interpretation, we should not do so.

The arms negotiators who represent the Soviet Union are markedly different today from 1982 and 1983. Ambassador Vorontsov poses a very different picture from Ambassador Karpov in terms of approach. And when the Soviet officials in Geneva talk about arms, they are not talking about narrow versus broad. We brought up the subject in a free-wheeling exchange because Senators do not bind the executive branch, and can talk more freely. When we talk about the narrow intepretation versus the broad interpretation, the Soviet negotiators slough it off. They are not interested.

I have just had additional time yielded to me.

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. SPECTER. I thank the Chair and I thank the distinguished ranking member.

The Soviet negotiators expressed concern about the kind of development and testing which could put up 100 space stations, test them one day, and make them operational the next day.

On March 1, General Secretary Gorbachev issued a statement focused on deployment of the strategic defense initiative by the United States and not on testing. There were discussions as to whether laboratory testing meant something more expansive than a

room with four walls and a ceiling. From the Soviet point of view, there is not this concern on narrow versus broad, at least as it was portrayed during the limited period of the presence of the seven Senator observation team in Geneva at the end of February and the beginning of March.

Mr. President, that is the essence of what I have to say.

In brief summary, it is my concern that the dominant issue on the Department of Defense authorization bill is how the strategic defense initiative testing is interpreted under the Anti-Ballistic Missile Treaty. We ought not to proceed to this bill until there is an opportunity for Senator NUNN to file his paper on the negotiating record, until there is an opportunity to finish the hearings which have been undertaken by the Judiciary Committee and the Foreign Relations Committee, an opportunity to review the new Sofaer document, and an opportunity to review the records relating to the subsequent practices of the parties.

If, as, and when we get to the substantive matter here, Mr. President, I would suggest that the debate will be one of historic importance. It is going to be a very involved debate. It is my hope that there will be sufficient declassifications so that on the floor of this body we can get right into the details of the "airgrams" and "Memcons" from Geneva to Washington and Helsinki to Washington, and get right down into the details as to what is the negotiating record shows, and what are the subsequent practices of the parties. It may be, as Senator NUNN pointed out, that there is going to be a new era in ratification proceedings. I think the genie is already out of the bottle, whatever happens on this issue today. The next treaty which comes before the U.S. Senate will receive a piercing inquiry on the negotiating record, beyond any question. This issue focused with precision on the enormous difficulty posed by having the United States with the executive branch and the Soviet officials agreed on treaty A, perhaps the Senate having ratified treaty B—where are we then as a matter of law?

As a matter of international law there is no question but that the agreement is made between the parties, albeit it is the executive branch representing the U.S. Government. But as a matter of constitutional law in the United States, may not have a valid ratification if the Senate has not the same treaty, and the same evidence on intent as was negotiated by our executive branch. So the next treaty which comes to this body I think will be treated very differently from the way any treaty has been treated in the past.

But because of the importance of these measures, Mr. President, I urge my colleagues to oppose this motion to proceed so we can have all the facts before us and have a comprehensive analysis of the law before deciding this very important question.

I thank the Chair. I want to thank my good friend from Virginia, the ranking member, for affording me the extra courtesy and the extra time here this afternoon.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I think all Senators have agreed that this has been a very constructive contribution to this debate. While some of us have focused on certain constitutional aspects, procedural aspects and the like, the Senator from Pennsylvania has pointed out that there are two other committees of the U.S. Senate diligently pursuing their own analysis, and hopefully eventually a determination of many of the same issues that control the outcome of the consideration of this particular amendment known as the Levin-Nunn amendment on this bill; and that those committees as yet have not completed their work; that the committees and indeed the individual members intend to press on to complete additional research and hearings.

Mr. SPECTER. If I might add, it may be, that perhaps some expertise could be lodged in the Judiciary Committee when you have an issue of constitutional importance. Our Subcommittee on Constitutional Law deals with it all the time and the committee deals with it all the time.

It ought to be noted that there is a resolution which the distinguished chairman of the Judiciary Committee, and second ranking member on Foreign Relations, Senator BIDEN, has proposed on this issue precisely. So that this issue is certainly going to be before the Senate. It does not have to be taken up in this bill. This bill can proceed without the issue on interpretation of testing in outer space, reserving that issue until other committees have finished their work.

Mr. WARNER. Mr. President, if the Senator from Pennsylvania will just remain a few more minutes, I and others on the Armed Services Committee tried very respectfully to persuade our other colleagues not to include this amendment for many of the very reasons stated by the Senator from Pennsylvania, namely that the work of the Senate, and other committees, and indeed the work of the President, the Secretary of State, and other members of the administration had not been completed. Indeed, the consultations process, should we say, that was requested by a number of Senators and others is incomplete.

I do hope that perhaps at some point in this debate we can look on the advantages of taking this amendment off without prejudice—perhaps it could be made into a freestanding bill—and let the Senate then consider it at a time when work by other committees, other Senators, and indeed, the administration, has been completed. To me, that would be the most desirable and beneficial course of action. I shall not press that matter further because my distinguished chairman is not here, and I know not the views of my colleague from Illinois. But he, of course, could express them for himself.

In conclusion, I thank again the Senator from Pennsylvania.

Mr. President, I encourage, for the balance of time the leadership desires to have devoted to this particular procedure today, other Members to come forward so that today's RECORD can again put together in one place as a composite of views that will be helpful to others examining this issue.

Unless there are other Senators seeking recognition—I see none at this time, Mr. President—I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, I hope that any Senators who wish to discuss the motion to proceed to take up the defense authorization bill will come to the floor.

Of course, we will be in as long as Senators wish to speak. But when there are no more speakers, I will attempt to go over until tomorrow.

Mr. WARNER. Mr. President, I see our distinguished colleague from South Carolina in the Chamber. Before I yield the floor, I wonder if I might just mention to the distinguished majority leader the last speaker was the Senator from Pennsylvania, a member of the Judiciary Committee, and, indeed, the ranking member of that committee. He brought to the attention of the Senate the fact that the Foreign Relations Committee, the Judiciary Committee, and a number of individual Senators are working on this particular issue of the ABM Treaty that is framed by the Levin-Nunn amendment.

I brought to the attention of the Senate that the President, the Secretary of State, and the legal adviser to the Secretary, are continuing the consultation process with the Congress. At some point in time I would hope that the leadership of the Senate, together with the chairmen of the respective committees which have an interest in this issue, would look at the option of perhaps the Levin-Nunn amendment being removed from this bill so that the bill could go forward,

recognizing that other committees of the Senate have some jurisdiction over these issues and that their work is incomplete; to consider the possibility of having it as a freestanding bill and then schedule it at an appropriate time for debate, presumably at a time after the other committees have concluded their hearings. In a respectful way I bring that to the attention of the majority leader as one option to be considered as we proceed.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I am sure that as we get into the debate a little further, various options may occur to Senators. I think that is the benefit of going forward with the debate. I am sure that there are items in this bill, as there are in almost every bill, certainly in a bill of this size that comes to the Senate, which are contentious and on which Senators will not agree. It is through that medium of debate whereby we focus on the issues, sort them out, and often reach compromises in that regard.

I am confident that as we go forward we will probably find areas like that which will lend themselves to agreement.

I would not want to attempt to pass one way or another on what the distinguished Senator from Virginia has just mentioned with respect to the ABM Treaty, the Levin-Nunn amendment with regard to the interpretation of that treaty. I would think that only through the process of debate can we hopefully reach agreement.

Mr. WARNER. Mr. President, I thank the distinguished majority leader for having an open mind on that and entertaining the suggestion I made.

I see the distinguished minority leader here. I wonder if he might wish to address the issue of the advantages of having the Levin-Nunn amendment as a freestanding issue before the Senate, and that a debate on that amendment—well, it would no longer be an amendment but it would be a freestanding bill—could be scheduled at a time following the conclusion of the work of the Judiciary Committee and the Foreign Relations Committee, which I understand are having hearings on this issue.

Mr. SPECTER. On next Tuesday, the Judiciary Committee will have a session at which Judge Sofaer will testify. It may be of some interest that I wrote today to Senator BIDEN and Senator PELL, the chairmen of the two committees, stating that it might be useful if some could appear from the other side. I suggested Senator PELL and his staff. That would perhaps close the issue on the negotiating record. Those of us who have had the chance to read the negotiating record know that it is extremely complicated and there are strong positions on both sides. If you have two witnesses that go to the points head-to-head, it can provide a lot of clarification. I think it could develop facts which may be material.

CLOTURE MOTION

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

The PRESIDING OFFICER. The cloture motion having been presented under rule XX, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Senators Wendell Ford, J.J. Exon, Bill Bradley, Daniel K. Inouye, Alan J. Dixon, Barbara Mikulski, Sam Nunn, Quentin Burdick, George J. Mitchell, Terry Sanford, David Pryor, Kent Conrad, John Melcher, Dale Bumpers, John Breaux, Edward Kennedy, Frank Lautenberg, Howard Metzenbaum, John D. Rockefeller, Alan Cranston, and Jim Sasser.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. BYRD. Mr. President, I will just take 1 minute. I hope our friends on the other side of the aisle would be willing to let the Senate proceed to the consideration of the defense authorization bill prior to a vote on cloture. A vote on cloture will occur on Friday. I hope that in the meantime our friends will agree to let us take up this bill.

I am not sure that there will be any vote on it, for that matter. But I still hope that we can get the bill up, debate it, air it well, and let us see if we might come to an agreement on it.

Mr. NUNN. Will the Senator yield?

Mr. BYRD. I yield the floor.

Mr. NUNN. Mr. President.

Mr. DOLE. Mr. President.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I will comment briefly on what was said earlier and I will be happy to yield the floor.

I am perfectly willing, as I indicated earlier, that if we could separate this one amendment out, we would have a freestanding vote. There may be some with a different strategy to require the President to veto the whole bill, or maybe others who feel he will not veto the whole bill if this is in it. But that is not an accurate assessment of the President's position. This is a matter of great significance and one that we intend to make a record on. It may take a while, but that is what the Senate is for. When you have a matter of national significance, I think we ought to be heard.

So if we can be heard just as well on a freestanding agreement of some kind on the so-called Levin-Nunn amendment, that could go to the President and we could go ahead with the DOD authorization bill, which will be difficult enough to pass.

I can attest to that having been the majority leader and spending a couple of weeks, I think, last year, and 7 or 8 days the year before. There is a lot of work to do. I have made it the practice this year to do all I can to cooperate with the majority leader. I do not want to play games. It seems to me we have a lot of work to do. It is piling up and it is going to pile up even higher. I want to help the majority leader leave this place by October 1 this year, with maybe a 1 week slippage.

Mr. McCLURE. Or earlier.

Mr. DOLE. Or earlier, yes, if possible.

If we can work it out, that would be fine. I certainly do not want to frustrate the efforts of the distinguished chairman, who does an outstanding job, or the majority leader or the Senator from Virginia, but there is a fairly strong feeling on this side about this one issue. Aside from that, as I understand, the bill would not take all that much time. If we can work it out, we are willing, and, if not, we will have to go through whatever we have to go through, but not with the intent of anybody on this side that I know of to frustrate the leadership or frustrate the committee which has done such an outstanding job on this legislation.

Mr. NUNN. Mr. President, while the Senator from Kansas is here, let me make a couple of alternative suggestions.

One suggestion is that if the Senator from Kansas and the Senator from Virginia feel strongly about this issue, and I am sure they do, and would like to separate it out, I think that could be done. The only thing we have to do with it, though, is to also separate out the defense initiative funding because the two go together. Otherwise, you are giving the President $4.5 billion and you are saying to the President, "Here it is. Do whatever you want to with it. We will find out, I guess, when we read the papers."

If some want to separate it out, that is easy to do. But the problem is, it is the exact equivalent of giving the President money for the MX missile and saying, "You go out and base it any way you want to and let us know."

We cannot do that. That is abdication of our responsibilities. If Senators say they want to separate it out, I would say that is easy, we can take out the SDI provision and this provision

and set them aside and when we get ready to deal with them, we can deal with them, and go ahead with the defense bill and go into conference. That is one suggestion.

Of course, if the first one was to be acceptable, then we would not have to worry about the second one. But instead of debating the motion to proceed, after a reasonable time—I do not mind spending whatever time you want to spend on this issue. It is an important issue and deserves debate, 1 day, 2 days, 3 days, 4. But let us not hold up this whole bill. It has everything in it so important to our Nation's security, men and women who serve in the services. Let us go ahead with the bill and try to complete it. The Foreign Relations Committee will have had hearings. These hearings have been going on for some time. They can maybe complete them. We can hear from Judge Sofaer. Normally a defense bill takes 4, 5, 6, 7 days. There are going to be a number of amendments. Let us get to the end of the bill and then Senators have every right to hold it up. That is debatable. You can hold up a bill. We know you have enough votes to keep the filibuster going for quite a while. That is not the contest.

But also, if you have enough votes for that, you have enough votes to sustain the veto. I just do not understand why prolonging the bill after reasonable debate makes any sense. It does not have a conclusion. It does not do anything for security. It does not do anything for the strategic defense program. In fact, it works in exact opposite to the best interests of those who are in favor of the strategic defense initiative.

So I suggest we go ahead with the bill, take it up, debate just as long as the Senators would like, go ahead to the other amendments and debate those. If we get down to the end, we have not heard from Judge Sofaer adequately, you can still filibuster. You can filibuster the conference report. There is nothing to keep you from filibustering the conference report. It just does not make sense.

What we are going to end up doing, you get to a certain point and you will not have a defense bill. If you do not have a defense bill, you will have a continuing resolution. I recognize that he can veto a continuing resolution. But I know the mood and I believe most other people do. We saw what the House did yesterday. They now have $3.1 billion for SDI. We have $4.5 billion. I know the mood and the more it gets vetoed, the more the filibuster goes on, the more the SDI Program is going to go down in the final analysis.

So it seems to me that those who in all sincerity are pursuing this avenue are indeed taking a position that is going to erode the very support that they seek. The only hope we have of having a strategic defense initiative at all is if we have some bipartisan consensus. And those of us who support it on this side do feel strongly it is a blank check; the President just cannot go out and do whatever he wants to do. He told us what his program is going to be. It is supposed to be within the traditional interpretation. That is what they have testified to. We cannot sit back and have the Department of Defense in unilateral announcements saying the President can change any time he wants to and go to the interpretation—tests in the different manner than the tests he has laid out in front of our committee. He cannot do that. So that position is going to remain firm whether it is May or whether it is October.

I hope that we could take one of those two avenues. Either one of them would be satisfactory. Set aside the SDI funding and this provision, move on with the bill. We all know that at some point we will come back and put them together. Or an alternative is to go ahead, take up the bill, take everything else up, reserve the right to have extended debate at the end of the bill. That way we will not be losing time. The Senate will not be sitting here hour after hour of wasted time. We will be moving forward.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I do not quarrel with anything the distinguished Senator from Georgia has said, but I think that we should not get too nervous around here, until we have a filibuster. I tried day after day after day to get something moving in this body and nothing ever happened. Somebody would stand up and say, "You are not going to do that today," and I said, "Yes, sir," because generally if one, two, three, four, five Members decide you are not going to make much progress that can be achieved. So I think until somebody has laid down the gauntlet, I am not too concerned about option one, two, three, or four. But I do think that there is an important issue here and obviously there is a lot of leverage on the other side, because if they do not have their way then they will reduce SDI funding. It is not the very genius to figure that out. I am not certain whether the President can win in either event.

But I think there is some bipartisan support for SDI at some reasonable level. I hope there is. It may be that if we get at loggerheads sometime later on maybe there can be some accommodation to help keep things moving, because again I state I do not believe that I have intentionally frustrated the efforts of the majority leader yet this year. Sometimes we just cannot do things. Sometimes the leader is powerless to do what he would like to do.

We are going to continue to try to work out many of these proposals. But then I would not say we had reached the end of the road on this one.

Mr. DIXON. Will the minority leader yield for a moment, Mr. President, for a question?

I think what my distinguished colleague, the chairman of the committee, has said merits a lot of serious consideration on the other side. I see many of my colleagues from the committee. I think I can represent in a public place that every member of the committee expressed satisfaction at the conclusion of all of our hearings that everyone had been fairly treated and that we had a bill with which everybody was satisfied. Most of us would have liked a little higher number than we ended up with, but we did the job we had to do to end up with zero real growth. I think all of us are satisfied that we have a good bill. We have an honest difference of opinion between the two sides on the question of a narrow or a broad interpretation of the ABM Treaty. We have had a lot of good debate in the committtee, incidentially, and on the floor, may I say to the leader, on this subject matter. I think it has been a benefit to all of us.

However, is it not about time we had some serious conversations on both sides about what we can do to get to the merits of this bill and pass this important piece of legislation? I think there ought to be some areas of agreement, may I say, by virtue of which both sides could come to an understanding that we can move along with this very important legislation. There is a salary increase for our military personnel. There are a lot of things in this legislation that many Members who are on the floor hold dear. I think that between now and Friday a lot of good conversations between the leaders on both sides and the ranking member and the chairman could result in some very fruitful understandings.

Mr. DOLE. Since the Senator directed the question to me, I would hope we are always going to try to be constructive. It seems to me this should be a bipartisan effort. Defense is a bipartisan effort. So I do not know of anybody on this side who says, "No, never." But we may not have quite reached that point yet. There has not been a single quorum that I remember. Maybe one brief quorum call all afternoon, so Members have been debating. It is frustrating when they put in quorum calls and nobody does anything. So there has been some good debate. It is called to my attention that a number of Senators, particularly the Senator from Pennsylvania, made particularly well-reasoned statements. The Senator from South Carolina is ready to speak. We are getting debate out which would come in any

event. So I hope we are not yet judged to be dragging our feet on the bill. I know the Senator did not mean that.

Mr. BYRD. Mr. President, will the distinguished Republican leader yield?

Mr. DOLE. I will be happy to yield.

Mr. BYRD. Mr. President, I think the Republican leader would be the first to say that this Senator has supported SDI, and I assume there are some Senators on the minority leader's side who have not. I supported it last year when twice it survived by one vote. Now, a Senator can say it was his vote. Another Senator can say it was his vote. I can say it was my vote. But it was certainly bipartisan.

I am interested in getting a bill. As the distinguished Senator from Georgia has pointed out, the Republican leader has the votes over there, on this side, to stop cloture. We cannot invoke cloture. We cannot produce 60 votes on this side. We have only 54. We cannot produce 60 votes to invoke cloture. We cannot override the President's veto on this side.

I would hope that our friends on that side, who showed this morning that they could muster a solid phalanx of votes on procedural questions, would at least let the Senate take up the bill. We cannot break the filibuster on this bill as long as the Senators on that side stand against voting for cloture.

At the moment, we have before the Senate a motion to proceed, a motion to take up. Why do we not take it up and get on the bill and then debate?

Mr. WARNER. I say to the distinguished leader that there is equal desire on this side to take up the bill and get on with the Nation's business in terms of national defense.

The Levin-Nunn amendment is only tangentially related to this bill. In a technical sense, it constrains the money, but in a broader sense, it raises a very serious constitutional issue, which is now being examined by the Judiciary Committee, and a foreign policy issue—namely, the treaty and the broad versus narrow.

I ask the distinguished majority leader to consult the chairmen of those two committees, who are diligently working to reach some of the same conclusions forced by the debate on this amendment, and see whether or not we can break off the amendment from the bill—not break it off, but take it off and make it a freestanding measure.

I ask the distinguished Senator from Georgia: What is the necessity of incorporating the money from SDI? The bill, having the Levin-Nunn amendment, when acted upon by the Senate, could be drawn up in such a way as to be amended. What Congress does one day, it can undo the next day.

Mr. NUNN. The Senator from Virginia is eminently correct. The Senator knows the answer to his question. If you separate the SDI funding from this amendment, you are telling the President: "Here is your money, Mr. President."

We are saying to those who would like to filibuster, "Filibuster the next bill."

If you give him the money, he can do anything he wants to do with the money. There would be no congressional say so with unilateral interpretation.

If he wants that, he can take the position he advocated in the committee, through his spokesmen, and restructure them. He could have the testing. He could break the ABM Treaty through that method. Congress would have nothing to say about it.

The Senator says, "Send him a blank check and let him do what he wants."

I say that if you want to take this amendment out, take the funding out, and we will address them both at the same time, and we will at least have a chance to say something about the adherence or nonadherence to the treaty.

Mr. WARNER. The money we are about to give the President under the bill does not go to his authority to spend until the first of October. That is a long time, during which the Judiciary Committee will have completed its work, the Foreign Relations Committee will have completed its work, and our negotiators will be further along; and on the eve of the release of the funds, Congress could act, if it is the will of Congress, in some way to restrict.

Mr. NUNN. Will the Senator agree to an expedited procedure; that there would be no filibuster; that once that bill came up, it would be expedited here, with no holdup, so that we would make sure that we have the same right to vote on that measure on the floor as we would otherwise?

Mr. WARNER. As the Senator well knows, that is a matter to be considered by all Senators and the leadership. Far be it from one Senator to make a statement to confirm that request.

Mr. NUNN. I understand that, and I think the Senator understands the answer to his question.

The reason we have to have the money at the same time you do this is that otherwise you are giving the President authority to do whatever he wants to do with this money. That is not the way Congress operates under the Constitution. We did not devise the Constitution so that Congress would have nothing to do with the way defense money is spent. That is the constitutional responsibility of Congress.

Mr. THURMOND. Mr. President, I rise to commend the distinguished chairman of the Senate Armed Services Committee, Senator NUNN, and the distinguished ranking Republican, Senator WARNER, for their extraordinary efforts in bringing the most important bill to the floor in such a timely fashion. The funding recommendations included in this bill represent an appropriate balance, although at lower overall levels than I would have preferred, between our national security objectives and the need to balance the Federal budget.

I would also like to congratulate the distinguished chairman of the Strategic Forces and Nuclear Deterrence Subcommittee, Senator EXON, with whom it has been my distinct honor and pleasure to work. Under Senator EXON's leadership, the Strategic Subcommittee held at least one hearing on each of the major issues and achieved remarkable bipartisan consensus on a broad range of funding issues in the important and often controversial strategic and space programs arena.

Mr. President, the bill strongly supports ICBM modernization, recognizing that the final outcome of this issue will be decided in our conference with the House.

It contains strong support for the continued development of the Miniature Homing Vehicle Asat Program, recognizing the essential contribution of the Asat program both to deter actions by the Soviets that might impede, damage or destroy our important space assets, and to deny Soviet space-based capabilities that could threaten our terrestrial forces in time of war.

It contains funding for the strategic defense initiative that permits the continuation of a robust program, although at a funding level that will slow significantly major experiments that were planned to support an early 1990's decision to develop and deploy a strategic defense system.

It contains strong support for the continued modernization of our strategic forces and their command, control, and communications, including the Trident submarine and Trident II missile, and the advanced technology bomber.

It contains strong support for our space launch recovery efforts, and for both chemical weapons defensive measures and the modernization of chemical offensive capabilities through safe, binary munitions.

Mr. President, this bill also contains an important initiative with respect to the Department of Energy's weapons program. The committee has recommended that the N-reactor at Richland, WA, be put in a standby status, and that the Department use some of the savings to initiate work on a new production reactor on an urgent basis. The committee's action deals with a mounting budgetary crisis precipitated by the need to modernize the decades-

old production complex and to take remedial actions with respect to environmental issues. More importantly, the committee's action addresses the national security imperative to assure a source of critical nuclear materials for the long term. The committee deliberated at length in arriving at this recommendation. We made it recognizing that shutting down the N-reactor increases the risks in the short term that we will be unable to meet the critical material needs of our weapon's stockpile. There are, however, no easy choices open to us if we are to deal decisively with preserving the infrastructure on which our deterrence strategy depends.

Mr. President, let me turn for a moment to an item that is also at the heart of our overall military strength. For the past several years, the Senate Armed Services Committee has added funding for priority items for the Guard and Reserve. This year the committee approved a total of $300 million of additional purchases for elements of our Reserve components.

In a continuing effort to retire aging C-130 A model aircraft, the committee has recommended procurement of eight C-130 H model aircraft for the Air National Guard.

The committee also recommended that $150 million be allocated to the various Reserve components to procure miscellaneous unspecified equipment. This continues a program started several years ago by my distinguished colleague from Mississippi, Senator JOHN STENNIS and myself.

Additionally, the committee recommends that nine of the AH-64 attack helicopters authorized in this bill be designated for the Army National Guard.

Mr. President, while these expenditures may seem modest when compared to the entire defense budget, they will go a long way toward modernization efforts for the Guard and Reserve.

Mr. President, notwithstanding the strong reasons to support this bill, which I have just outlined, I must regrettably indicate that I cannot support this bill in its present form. This is entirely due to the inclusion of a provision known as the Levin-Nunn amendment, which I believe is detrimental to our national security interests.

It is not in our national security interests to require by statute that the President follow the more restrictive of two plausible interpretations of the ABM Treaty, when the Soviet Union is seeking an even more restrictive interpretation at the negotiating table. The Levin-Nunn amendment would have that effect.

It is not in our national security interests to seek to bind the United States to an interpretation under the ABM Treaty to which the Soviet Union is not bound. The Levin-Nunn amendment would have that effect.

It is not in the national security interests to grant statutorily to the House of Representatives the unilateral ability to compel the United States to follow for the next 2 years a particular foreign policy regarding our relations with the Soviet Union. The Levin-Nunn amendment would have that effect.

Such matters are constitutionally reserved to the President, and shared only with the Senate by virtue of treaty ratification procedures.

In short, Mr. President, at a time when the United States and the Soviet Union are engaged in negotiations involving the very matter addressed by the amendment, the Levin-Nunn amendment jeopardizes the prospects for reaching the best possible outcome for our long-term national security.

Mr. President, there will be considerable discussion of the issues raised by the Levin-Nunn amendment. I urge my colleagues who have not followed these issues closely to do so during consideration of this bill. Finally, I urge my colleagues to support an amendment that will be offered to strike the Levin-Nunn provision.

Mr. President, I cannot imagine a more detrimental step that this Congress could take than an attempt, at the very moment that the President of the United States is negotiating with the Soviets, to tie his hands on this matter.

In the negotiations, originally, before the adoption of this treaty, the Soviets took the broad interpretation. Now they are taking a more restrictive position than the narrow interpretation at the negotiating table. And so certainly, according to the negotiation procedures, according to the negotiating record—any Senator can get it and look it up—there is certainly ambiguity there where you can support either interpretation. And why do we want to tie the hands of the President now to a narrow interpretation, which will hurt him in negotiating to get the best agreement for the United States?

I cannot imagine anyone in the Congress, Senate or House, at this particular moment when we are negotiating with the Soviets attempting to take a position here that is going to tie the hands of the President or greatly handicap him in getting the agreement we might get if this action is not taken.

There is no question about it. Anyone who has studied this situation will realize that if we pass the Levin-Nunn amendment right now, we are giving the Soviets something that they cannot get at the negotiating table. Why should we do that?

I hope that public sentiment will express itself on this matter and that the Congress will realize what they are doing if they adopt the Levin-Nunn amendment at this particular moment when we are trying to get an agreement with the Soviets. Adoption of this amendment will hurt the President in arriving at an agreement which will be helpful to this country and if we do that, the American people will suffer.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator form Arizona.

Mr. MCCAIN. Mr. President, I would like to make a few remarks. First of all, I would like to associate myself with the very compelling and cogent remarks made by the distinguished Senator from South Carolina, Senator THURMOND, who has always lent a great deal to this very important debate.

Mr. President, I think we are talking about three things here. First, we are talking about the process as we know it here in the U.S. Senate. Second, we are talking about SDI itself and third, we are talking about a constitutional issue: Presidential prerogatives in the conduct of foreign policy, and in interpreting treaties and in carrying them out.

I paid close attention to the distinguished chairman of the committee in his remarks and, as always, they were very important.

Let me point out that the chairman said to those of us who oppose this portion of the bill, are you saying you are willing to sacrifice the new ships, the new airplanes, the research and development, the pay raise, the hard work that this committee did. Are you ready to sacrifice all that, as our chairman stated, because of this amendment? I see one of my distinguished subcommittee chairmen here, Senator DIXON. I appreciate the hard work he did on the subcommittee on which I am proud to serve.

I think that the reverse should be asked. I think I would ask the other members of this committee: Are you willing to sacrifice all this hard work, knowing full well that this President is going to veto this bill if it has that amendment attached to it and that we can probably muster at least 34 votes to sustain a veto? Is that the track we want to go down? Do we want to make the authorizing process irrelevant? Do we want to again consign the authority and indeed the responsibilities for this Nation's defense to the Appropriations Committee and end up with a continuing resolution in which the members of the committee will play a very small role?

I think that question should also be asked because it is clear that without the Nunn-Levin amendment this bill would have been unanimously supported by all members of the committee. We would have come here to the floor with a united front, and I would suggest that as a united committee we

probably could have beat back efforts to further reduce the defense authorization.

Now we come here to the floor of this body with the acrimony that existed this morning exacerbated by now "extended debate." Unfortunately we are, divided across the board, making it very difficult for us to concede to one another in order to present a united front, on the floor of this body and in the conference.

So I have to ask the distinguished chairman and with deep respect, Is he willing to sacrifice the hard work that he and the other members of the committee have devoted to this task? There have been literally thousands of hours invested by members and our outstanding staffs in order to craft what many of us believe is an outstanding document, with the exception of the Nunn-Levin amendment. This document can indeed insure U.S. national security interests throughout the world.

Also the distinguished chairman stated that the administration chose to simply do "whatever they wanted with $5.7 billion." I do not think that is the case. In fact, in the report language which is now part of the defense authorization bill, I would like to read something which I think is important. It says:

> As a result of hearings before this and other committees in the Senate and House of Representatives, serious questions have been raised about the validity of the proposed reinterpretation of the ABM Treaty. To its credit, the Administration has acknowledged deficiencies in its review of issues pertaining to interpretation of the ABM Treaty, and has pledged to consult carefully with the Congress before undertaking any further action contrary to the original meaning of the Treaty as presented to this Committee and the Congress in 1972.

Mr. President, those are not my words, those are the words of the report language concerning their interpretation, and indeed it is mine also. This administration will not advance or leave the so-called narrow interpretation of the ABM Treaty without full consultation with the Congress.

Now, that does not mean, obviously, that they will be bound by that, but at least there will certainly be consultation. I would suggest, as the chairman did, there would have to be a majority bipartisan support of a departure from the narrow interpretation of the treaty before they could possibly proceed, because this body still controls the purse strings and this body, on almost any amendment, on almost any bill, could propose an amendment which could prevent a departure from the narrow version of the treaty.

So I have to draw a conclusion, Mr. President, that this whole debate on the so-called Nunn-Levin amendment is to some degree symbolic. Unfortunately, we are dealing with such a serious issue that I do not think that it is really appropriate at this time, particularly given what is at stake.

Let me also talk for a second about SDI itself. There are people all across America who do not support SDI. I think that is very clear. But it is also clear that about 60-some percent of the American people support the concept of SDI. I think that is very understandable, because a majority of the American people are in favor of an experiment or testing to see whether we can arrive at a nonnuclear defensive shield in space as opposed to the uninterrupted buildup of nuclear offensive weapons on the ground.

I also believe as most Americans do, that we have an obligation—to defend ourselves, our citizenry and country. We must find a way to defend our citizens as opposed to holding them hostage as called for today by a doctrine of mutual assured deterrence. This is not only repugnant but, unfortunately, may no longer be viable for various reasons. I do not think it is in our interest to choke SDI in it cradle.

I also would suggest that we will reach a time, perhaps not this year, perhaps not next year, where we will have to make a decision to test this equipment, to see whether actually we can erect some sort of a shield which could, at a minimum, protect us from the threat of nuclear blackmail.

Let me talk just a second about negotiations. We are at a point, according to the media, and according to all the briefings that I have received where we may have achieved or are about to achieve a signifiant arms control breakthrough with the Soviet Union. Why are we at this point? Mr. President, I am not positive that we are going to reach this agreement, but all the signs are leading in that direction.

How did we get to the point where we are today? I think you will find that SDI and a change of leadership in the Soviet Union are the two major factors which contributed to the position we are in, in the negotiations today. In 1983, the Soviet Union left the Geneva arms conference stating that they would never return as long as Pershing and cruise missiles were in Western Europe.

I might remind you, Mr. President, that the reason why the Pershing and cruise missiles were in place in Western Europe was a direct response to the buildup of intermediate nuclear forces by the Soviet Union. The statement was there; it was credible. No one believed that the Soviet Union was ready to return and, indeed there was an invariable agony, as far as our European allies are concerned, as to how they should handle the bleak prospect of the unabated arms race.

Then, of course, SDI came on the scene. Then, for whatever reason—we can talk about credibility, or the lack of credibility SDI had within the Soviet Union—I think they are clear indicators that the Soviet Union gives great credibility to SDI. Look at the enormous amounts of money that they are devoting to their own SDI Program.

Although I have enormous and total faith in our technology and in our way of life, we will always be able to maintain a technological lead in SDI over the Soviet Union. I believe the Soviet Union also understands that. That is why Mr. Gorbachev made it his No. 1 priority and continues to be the No. 1 priority either to reduce dramatically our SDI prospects or to do away with all SDI, as proposed at Reykjavik when the bargaining reached the 11th hour.

So, SDI has made a major contribution to the arms control process and I hope we can appreciate that. I hope we appreciate that when we consider this amendment and what it will do in arms control, in both Geneva and here in the United States. I think our President is in a tough situation. I think President Reagan has to negotiate with two groups. At least Mr. Gorbachev has to negotiate only with the United States. Our President has to negotiate with the Congress and with the Soviets. But be that as it may. That is one of the symptoms of democracy which we will all accept. But I hope that this body would understand how critical SDI is to that process at this time.

Finally, I also want to reiterate, if we do not remove the Nunn-Levin language from this bill, we will doom this bill to failure. I do not think there is any doubt about that. If we do not remove the Nunn-Levin language, we will cripple or, indeed, severely impair the ability of our negotiators to continue at Geneva. We may deprive the American people of the prospect, the hope, that is sparked in the minds and hearts of many people across America that somehow we could get out of this terrible grip of mutual terror which has been brought upon us, which has been wreaked upon us by the continued incessant buildup of offensive nuclear weapons which threaten to incinerate this planet.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, may I just make these comments concerning this debate on the question of moving to the DOD authorization bill? I think that all of the remarks that have been made by my distinguished colleagues on the other side are very informative and very sincere. There is obviously a very considerable difference of opinion between this side and the other side

about the interpretation of the ABM Treaty.

But I think the point is also clear that a vote was held in the committee and a majority voted for the narrow interpretation of the ABM Treaty and that is part of the DOD authorization bill.

Now, it is very clear that it is going to take us a long time to pass this DOD authorization bill in my case; a number of days at least. There will be a good many amendments that will be considered by the U.S. Senate during the time that we debate this bill.

I would hope that my colleagues, between now and tomorrow morning, might have a change of heart about going to the issues in the DOD authorization bill. If they do not, we are going to waste all of tomorrow and probably a good deal of Friday discussing going to the bill itself, and I suspect that this side does not have the necessary 60 votes for cloture. So, in effect, we will waste all of this week in connection with this debate.

And, in the final analysis, some kind of an understanding will have to be achieved between the two sides so that we can go on with the business of the Senate, because I feel confident that my colleagues on the other side do really want to pass a Department of Defense authorization bill shortly. In any event, the President can veto the bill if he really takes exception to the language in the bill. And I think it is very clear that they have more than the necessary 34 votes on their side to sustain the veto. So I think that we are wasting a lot of time that could be used usefully in considering the DOD authorization bill.

Now, why should we consider this bill? I think the reason we ought to consider the bill is that there is unanimous opinion among the members of the committee that this is the very best bill that we could achieve, given the fiscal constraints that we face this year. Now, I see a number of members of the committee on the floor right now. I can say that my subcommittee, the Subcommittee on Readiness, Sustainability, and Support, had about 36 or 37 percent of the total amount of money that was authorized in this DOD authorization bill.

I believe I can say that every member of the subcommittee was satisfied with the treatment accorded them. The majority staff worked diligently with the minority staff. The end work product, Mr. President, may I say, was adopted in my subcommittee on a unanimous vote. I think that was generally true of the other subcommittees as well.

I remember very well before the final vote on the question of a narrow or broad interpretation, everyone on the committee expressed absolute satisfaction with the overall work product within the fiscal constraints that we were facing in the committee.

In other words, essentially we have before us a bill that probably has more support in the U.S. Senate than any DOD authorization bill in the 7 years that I have been serving in the U.S. Senate. We are divided on one question. It seems to me in due course we can resolve our differences somehow on that issue. But we ought to be trying to resolve that by conversations between the leaders, and between the distinguished ranking members and the chairman, my good friend from Virginia, who may I say publicly was an outstanding force in the committee for the excellent bill that we passed out of the committee. I know he has unlimited respect and affection for the distinguished chairman of the committee, the senior Senator from Georgia, who I am sure has the respect and affection of every Member of this body, and who has worked diligently to produce this excellent work product of the committee.

I appreciate the fact that everybody wants to make their speeches and there have been some very good ones. I want to congratulate all my colleagues, Madam President, who have made these fine speeches. But I would like to suggest it is 6 o'clock in the afternoon, and that we are going to waste this entire week talking about this issue if we do not shortly begin the DOD authorization bill. I hope we do not have to go through the whole procedure and vote on cloture. I think it is eminently clear that the votes are not here, may I say to my friend, the ranking member, the distinguished senior Senator from Virginia. The votes are not here for cloture. If we do not obtain cloture we will have wasted the whole week. We will not be in Monday. We will get back next week, and it will be a considerable amount of time before we can actually get to the many important issues in this very important bill.

There is probably, may I say, a strong feeling on the other side that we ought to go to this bill, with the exception of their reservations about the Levin-Nunn amendment that provides for the narrow interpretation of the ABM Treaty.

So I would like to entreat my colleague, the ranking member, and the Republican leader and others on the other side, to begin to have some earnest conversations with our side about some way we can resolve this difference of opinion and get on with the important business at hand without wasting this entire week.

I hope, may I say to my friend from Virginia, that perhaps he would spend a little time with his friend from Georgia, and the Senator from Kansas would spend a little time with the Senator from West Virginia, and we would have some nice conversations that would result by perhaps noon tomorrow in going to the DOD authorization bill.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Virginia.

Mr. WARNER. Madam President, I thank my distinguished colleague from Illinois. It is a pleasure to serve with him on this committee, and indeed in the Senate. He is the Senator that we all recognize—and I think he is speaking from the heart at this moment, but we must recognize—and I take issue with two points today. First a technical point. He said the Armed Services Committee voted on the narrow versus the broad interpretation. I believe the authors of this amendment have tried very carefully to point out we did not do that. We indirectly may have framed the debate for that, but in a sense, all we did was to put in the technical restriction on the expenditure of funds, thereby limiting the President's option at some future time if he so desired to make a shift in the direction of the program. So much for that.

But my second point is disagreement that time has not been wasted. Today has been a good exchange, and very substantive. I am now going over remarks made by others carefully, and learning some things which I, no matter how much time I spent, recognize for the first time.

I ask my distinguished colleague, as I did the majority leader, to think in terms of the work being done by other committees in the Senate on the very issues that are framed by the Levin-Nunn amendment, and whether or not in fairness to them—in fairness to our President who is now completing work, the first section of the work having arrived here in the Senate today—more time is needed for the deliberations of the issues framed by the Levin-Nunn amendment, to give that time to other Members of the Senate, and to proceed on with the bill.

Let us look at the means by which we can take this amendment, and have it set aside as a freestanding measure to be considered by the Senate at a future time.

Mr. DIXON. I thank my colleague from Virginia. He has always been so very dedicated to the work of the committee. I appreciate his comments very much. I did not mean to imply, of course, that this very excellent debate that took place today was a waste of the time either of the Senate, or the country. But I meant to state very forcefully that I believe that in short order we ought to proceed to the bill. If my colleagues wish to continue this debate on the merits of the legislation, I think that is entirely in order. But I think we have a lot of work ahead of us on the bill.

I would hope that before this week is ended, we can begin work on the DOD authorization bill.

I thank my friend from Virginia for his excellent comments.

Mr. WARNER. Madam President, at this time, I see no other Senator seeking recognition, and it is our practice now to allow the leadership to determine the future course of the Senate. I would suggest we put in a quorum call until such time as the Senate receives direction from the leaders. I suggest the absence of a quorum.

The PRESIDING OFFICER. There is no Senator seeking recognition. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. BYRD. Madam President, I ask unanimous consent that there be a brief period for morning business, that it not extend beyond 10 minutes, and Senators may speak therein out of order.

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

SENATOR DOLE'S BICENTENNIAL MINUTE

SENATE PASSES "TARIFF OF ABOMINATIONS"

Mr. DOLE. Mr. President, 159 years ago today, on May 13, 1828, the Senate passed the "tariff of abomination," a high-protective tariff that inflamed sectional passions and triggered a major constitutional crisis.

Tariff rates were tricky business. Manufacturing interests generally favored a higher tariff to raise the cost of imports and promote American manufactured goods; agricultural interests favored a lower tariff to promote overseas sales of their produce and cheaper imports. Those representing agrarian interest in Congress thought they found an ingenious solution. They would vote for the highest possible tariff rates—exactly the opposite of what they wanted. They believed President John Quincy Adams, who was sympathetic to the manufacturers, would be forced to veto the high tariff. He would then carry that stigma in his election campaign against Andrew Jackson.

But the high tariff passed and Adams signed it. The South was outraged and some Southerners began to talk of secession. It was the "tariff of abominations," as they called it, that prompted Vice President John C. Calhoun to write an anonymous pamphlet denouncing the tariff as unconstitutional and unjust, and declaring that the State legislatures had the power to refuse to enforce—or nullify—a Federal law. When South Carolina adopted Calhoun's proposal, President Jackson hotly denied the right of nullification, and threatened to send troops to uphold the tariff. The crisis was at last averted when Senator Henry Clay devised the compromise tariff of 1833, to remove some duties immediately, and gradually lower the rest. But the sectional angers thus aroused never completely disappeared in those tense decades before the Civil War.

The moral to this story, I suppose, is that Senators should be careful of what they vote for, because they might actually get it.

INDIAN FISHING RIGHTS

Mr. BYRD. Madam President, I would inquire of the distinguished Republican leader if Calendar Order No. 113, S. 727, has been cleared on that side.

Mr. DOLE. It has been cleared on this side.

Mr. BYRD. I thank the leader.

Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 113, S. 727.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 727) to clarify Indian treaties and Executive orders with respect to fishing rights.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

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

SECTION 1. Section 2079 of the Revised Statutes (25 U.S.C. 71) is amended by striking out the period at the end thereof and inserting in lieu thereof the following proviso: ": Provided, That such treaties, and any Executive orders and Acts of Congress under which the rights of any Indian tribe to fish are secured, shall be construed to prohibit the imposition, under Federal law or under any law of a State or political subdivision thereof, of any tax on any income derived by an Indian from the exercise of rights to fish secured by such treaty, Executive order, or Act of Congress.".

SEC. 2. The provisions of this Act shall apply to any period for which the statute of limitations or any other bar to assessing tax has not expired.

Mr. INOUYE. Madam President, I rise today in support of S. 727, a bill to clarify Indian treaties, executive orders, and acts of Congress which secure rights to fish to Indian tribes.

Madam President, the genesis of this legislation is the recent efforts of the Internal Revenue Service to impose taxes on income of Indian treaty fishermen for income derived from the harvesting of this trust resource. This effort has been the subject of disagreement between the Department of the Interior and the Internal Revenue Service which was finally resolved within the administration when the Department of Justice declined to adopt the legal views of the Solicitor of the Department of the Interior and opted, instead, to accept the legal views of the Internal Revenue Service.

The exchange of views of the Department of the Interior and the Department of Justice are set forth in full in the report filed by the Select Committee on Indian Affairs to accompany this bill. It is sufficient, here, to say that the disagreement between the Department of the Interior and IRS hinges on the interpretation of a major Supreme Court decision in this area of taxation of Indian trust resources: *Squire* v. *Capoeman*, 351 U.S. 1 (1956). The Internal Revenue Service has insisted that in the absence of express language in the treaty, executive order or act of Congress establishing an exemption from taxation, the general revenue acts of the Congress should govern and no exemption should be found. The Interior Department argues that most of the fishing rights in question, and particularly those established by treaty, were secured as much as 50 years before the first Federal income tax laws were enacted. It is unreasonable to expect language in such a treaty or other document expressly addressing an issue of Federal taxation. Instead, I firmly believe that the policies underlying the establishment of the right should be controlling.

Madam President, it is the view of the Select Committee that income derived by an Indian exercising his or her right to take fish should enjoy the same tax treatment as income derived by an Indian farming his trust allotment, raising cattle on his trust allotment, harvesting timber from his trust land, or obtaining income from mineral resources on his trust land. On the basis of the Squire case, the Internal Revenue Service has recognized exemptions from taxation derived directly from the utilization of such trust resources. To those Indians deriving a living from the harvest of fish the right to which is secured by treaty, executive order or act of Congress, the fish swimming in the stream or ocean is as much a trust resource as are the lands being worked by these other Indians.

The faith required of the United States to honor its commitments to the fishing Indians cannot be less than that faith owed to the land-based Indian. The purpose of this legislation is to honor that commitment and provide the necessary language to enable the treaties, executive orders or acts of Congress which secured the right to fish in the first instance to be interpreted in the same fashion as those

treaties, executive orders or acts of Congress which secured tribal and individual Indian rights in land.

Madam President, I urge my colleagues to join in supporting this important legislation.

Mr. EVANS. Madam President, I rise today in support of S. 727, a bill to clarify the tax-exempt status of income derived by Indians from the exercise of fishing rights secured by treaty, executive order, or act of Congress. The bill is similar to an amendment to the debt ceiling bill accepted by the Senate during the last Congress. For reasons unrelated to the merits of the amendment, however, it did not survive conference of debt ceiling bill.

S. 727 was reported by the Select Committee on Indian Affairs without opposition. During the committee's hearing on this legislation, Assistant Secretary of Interior for Indian Affairs Ross Swimmer testified in support of the bill. Mr. Swimmer made it quite clear that he was testifying on behalf of all the agencies in the executive branch of the Federal Government, including the Office of Management and Budget, the Department of Justice, and the Department of the Treasury.

Madam President, many Indians have relied heavily, some exclusively, on fishing for their food and economic wellbeing. Consistent with the importance of fishing to their way of life, the Indians often retained their traditional fishing rights when they signed treaties with the U.S. Government. Leaders of Indian tribes are generally thought to have understood that they would be able to continue fishing and trading fish without, in any way, having to turn over to the Federal Government a portion of their catch.

I am grateful to my colleagues Senators BRADLEY, DECONCINI, ADAMS, MCCAIN and HATFIELD, and especially to my good friend and colleague Indian Affairs Committee Chairman INOUYE, for their support and their assistance in bringing this bill before the Senate. I urge other Members of the Senate to support our efforts.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be offered, the question is on the engrossment and third reading of the bill.

The bill [S. 727] was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read: "A bill to clarify Indian treaties, Executive orders, and acts of Congress with respect to Indian fishing rights."

Mr. BYRD. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NEW G.I. BILL CONTINUATION ACT

Mr. BYRD. Madam President, on behalf of Mr. CRANSTON, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1085

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1085) entitled "An act to amend title 38, United States Code, to make permanent the new GI bill educational assistance programs established by chapter 30 of such title, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "New GI Bill Continuation Act".

SEC. 2. SHORT TITLE OF THE NEW G.I. BILL.

Section 701 of the department of Defense Authorization Act, 1985 (Public Law 98-525; 38 U.S.C. 101 note) is amended to read as follows:

"SHORT TITLE

"SEC. 701. This title may be cited as the 'Montgomery G.I. Bill Act of 1984'.".

SEC. 3. CONTINUATION OF ALL-VOLUNTEER FORCE VETERANS' EDUCATIONAL ASSISTANCE UNDER THE NEW GI BILL PROGRAM.

(a) ACTIVE DUTY PROGRAM.—Section 1411(a)(1)(A) of title 38, United States Code, is amended by striking out "during the period beginning on July 1, 1985, and ending on June 30, 1988," and inserting in lieu thereof "after June 30, 1985,".

(b) ACTIVE DUTY AND SELECTIVE RESERVE PROGRAM.—Section 1411(a)(1)(A) of title 38, United States Code, is amended by striking out "during the period beginning on July 1, 1985, and ending on June 30, 1988," and inserting in lieu thereof "after June 30, 1985,".

SEC. 4 CONTINUATION OF EDUCATION ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE UNDER THE NEW GI BILL.

Section 2132(a)(1) of title 10, United States Code, is amended by striking out "during the period beginning on July 1, 1985, and ending on June 30, 1988," and inserting in lieu thereof "after June 30, 1985,".

SEC. 5. REVISION OF DECLARED PURPOSES.

Section 1401 of title 38, United States Code, is amended—

(1) by striking out "and" at the end of clause (2) and redesignating clauses (2) and (3) as clauses (4) and (5), respectively;

(2) by inserting after clause (1) the following new clauses:

"(2) to extend the benefits of a higher education to qualifying men and women who might not otherwise be able to afford such an education;

"(3) to provide for vocational readjustment and to restore lost educational opportunities to those service men and women who served on active duty after June 30, 1985;";

(3) by striking out the period at the end of clause (5), as redesignated by clause (1) of this section, and inserting in lieu theeof "; and"; and

(4) by inserting at the end the following new clause:

"(6) to enhance our Nation's competitiveness through the development of a more highly educated and productive work force.".

Mr. BYRD. Madam President, on behalf of Mr. CRANSTON, I ask that the Senate concur in the amendment of the House to the amendment of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. BYRD. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REPRESENTATION OF SENATE OFFICERS

Mr. BYRD. Madam President, on behalf of Mr. DOLE and myself, I send to the desk a Senate resolution and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report the resolution.

The bill clerk read as follows:

A resolution (S. Res. 215) to direct the Senate legal counsel to represent the President of the Senate and the President pro tempore in the case of McWherter v. Bush, et al.

The Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, the Vice President, in his capacity as President of the Senate, and Senator STENNIS, in his capacity as President pro tempore, have been named as defendants in an action filed by the Governor of Tennessee in the U.S. District Court for the District of Columbia. The Governor has also named the Speaker of the House as a defendant.

The Congress, in the Nuclear Waste Policy Act of 1982, established a program for the selection of one or more sites for the permanent deep geologic disposal of high-level radioactive wastes and spent nuclear fuel. The act requires the President to submit to the Congress a recommended site for a repository, but it allows any State to object to the location of a permanent repository within its borders by submitting a notice of disapproval to the Congress within 60 days of the President's recommendation. If a State submits a notice of disapproval the Secretary of Energy may not apply to the Nuclear Regulatory Commission for a construction authorization unless the

Congress passes a joint resolution approving the site within a prescribed period after receiving the State's objection.

The statute provides that a State's notice of disapproval shall be considered to be submitted to the Congress on the date of its transmittal to the Speaker and to the President pro tempore. In the Senate, a notice of disapproval is to be referred to committee and the chairman of the committee shall introduce a resolution to approve the site recommended by the President.

When the Congress decided in 1982 that one or more permanent repositories should be developed, it also conceived of, but did not authorize, an interim facility for the monitored retrievable storage of nuclear wastes pending their shipment to permanent repositories. As required by the act, the Secretary of Energy has submitted to the Congress a proposal for legislative authorization of the construction of a monitored retrievable storage facility. The Department of Energy's proposal, which was submitted on March 30, 1987, has been referred to committee. The Department recommended that the facility be constructed in Tennessee.

Section 141(h) of the 1982 act provides that a monitored retrievable facility authorized pursuant to the act shall also be subject to the act's provisions that enable a State to disapprove a site for a permanent repository. The question which Tennessee is raising in this lawsuit is whether the Department of Energy's March 30, 1987, proposal to the Congress triggers the State's opportunity to submit to the Congress a notice of disapproval. The purpose of Tennessee's declaratory judgment action is to obtain a judicial ruling which will determine when Tennessee may utilize its statutory opportunity to disapprove a decision to locate a monitored retrievable storage facility in that State.

The following resolution would authorize the Senate Legal Counsel to represent the President of the Senate and the President pro tempore in this action. There is no actual controversy between Tennessee and either the President of the Senate or the President pro tempore. Neither has taken or will take, in their capacity as officers of the Senate, any action which is adverse to Tennessee. If Tennessee submits a notice of disapproval, it will be referred, absent a directive to the contrary by the Senate, to the appropriate committee. The committee will then decide whether to propose any legislative action to the Senate.

The district court has expedited the case at Tennessee's request. The defendants' opposition to Tennessee's motion for a summary declaratory judgment is due May 14. The court will hear argument on May 20.

The memorandum is as follows:

U.S. SENATE,
OFFICE OF SENATE LEGAL COUNSEL,
Washington, DC, May 12, 1987.

MEMORANDUM

Re: *McWherter* v. *Bush.*

To: The Joint Leadership Group; Hon. ROBERT C. BYRD, Hon. ROBERT DOLE, Hon. JOHN C. STENNIS, Hon. JOSEPH R. BIDEN, Jr., Hon. STROM THURMOND, Hon. WENDELL H. FORD, Hon. TED STEVENS.

From: Michael Davidson, Ken U. Benjamin, Jr.

The Vice President, in his capacity as President of the Senate, and Senator Stennis, in his capacity as President pro tempore, have been named as defendants in an action filed by the Governor of Tennessee in the United States District Court for the District of Columbia. The other original defendant is the Speaker of the House.

The Congress, in the Nuclear Waste Policy Act of 1982, established a program for the selection of one or more sites for the permanent deep geologic disposal of high-level radioactive wastes and spent nuclear fuel. The Act requires the President to submit to the Congress a recommended site for a repository, 42 U.S.C. § 10134(a)(2)(A), but any state may object to the location of a permanent repository in the state by submitting a notice of disapproval to the Congress within 60 days of the President's recommendation, id., § 10136(b). If a state submits a notice of disapproval the Secretary of Energy may not apply to the Nuclear Regulatory Commission for a construction authorization unless the Congress passes a joint resolution approving the site within a prescribed period after receiving a state's objection. Id. § 10135(c).

The statute provides that a state's notice of disapproval shall be considered to be submitted to the Congress on the date of its transmittal to the Speaker and to the President pro tempore. Id. § 10136(b)(2). In the Senate, notice of disapproval is to be referred to a committee[1] and the chairman of that committee shall introduce a resolution to approve the site recommended by the President. Id., § 10135(d)(2)(A). No role is assigned in these initial steps to the President of the Senate, although he might preside over subsequent debate in the Senate on a joint resolution to approve the recommended site.

When the Congress decided in 1982 that one or more permanent repositories should be developed, it also conceived of, but did not authorize, an interim facility for the monitored retrievable storage (MRS) of nuclear wastes pending their shipment to permanent repositories. ID. § 10161. In accordance with section 10161, the Secretary of Energy, on March 30, 1987, submitted to the Congress a proposal for legislative authorization of the construction of an MRS. DOE recommended that the facility be constructed in Tennessee.

42 U.S.C. §§ 10161(h) provides that an MRS facility authorized pursuant to section 10161 shall be subject to the provisions of the Nuclear Waste Policy Act that enable a state to disapprove a site for a permanent repository. The question which Tennessee is raising in this lawsuit is whether DOE's March 30, 1987 proposal to the Congress triggers the state's opportunity to submit to the Congress a notice of disapproval. The purpose of Tennessee's declaratory judgment action is to obtain a judicial ruling which will determine when Tennessee may utilize its statutory opportunity to disapprove a decision to locate an MRS in Tennessee.

We will be coordinating our handling of this case with the Department of Justice and the Department of Energy. The Department of Energy is planning to intervene in the case to present to the court the executive branch's interpretation of the Act. Our principal contention on behalf of the Senate defendants would be that there is no justifiable controversy between Tennessee and either the President of the Senate or the President pro tempore. Neither has taken or will take, in their capacity as officers of the Senate, any action which is adverse to Tennessee. If Tennessee submits a notice of disapproval it will be referred, absent a directive to the contrary by the Senate, to the appropriate committee. The committee will then decide whether to propose any legislative action to the Senate.

District Judge Joyce Hens Green has expedited, the case at Tennessee's request. Our opposition to Tennessee's motion for summary judgment is due the morning of May 14; the court will hear argument on May 20. The court has expedited the case because Tennessee's notice of disapproval must be filed on or before May 29 if DOE's March 30 proposal is determined to have triggered the procedure for State disapproval.

U.S. SENATE,
OFFICE OF SENATE LEGAL COUNSEL,
Washington, DC, May 12, 1987.

To: Charles Kinney, Rich Belas.

From: Mike.

We have reviewed the draft floor statement and the position that we propose to take in this case with the staff on both the Committee on Environment and Public Works and the Committee on Energy and Natural Resources. I have also sent an explanation of the case to the Vice President's office and to Senator STENNIS's office.

The Court has expedited the case. Our brief is due Thursday morning, May 14, at 9:00 a.m.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 215) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 215

Whereas, in the case of *Ned Ray McWherter* v. *George Bush, et al.*, Case No. 87-1184-JHG, pending in the United States District Court for the District of Columbia, the plaintiff has named George Bush, in his capacity as President of the Senate, and John C. Stennis, in his capacity as President pro tempore of the Senate, as defendants;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288(a)(1)(1982), the Senate may direct its counsel to represent Members and officers of the Senate in civil actions relating to their official responsibilities; Now, therefore be it

[1] The Committee on Energy and Natural Resources has jurisdiction over the "[n]onmilitary development of nuclear energy." Standing Rule 25(g)(1)(12). The Committee on Environment and Public Works has jurisdiction over the "[n]onmilitary environmental regulation and control of nuclear energy." Standing Rule 25(h)(1)(10).

Resolved, That the Senate Legal Counsel is directed to represent the President of the Senate and the President pro tempore of the Senate in the case of *McWherter* v. *Bush, et al.*

MEASURE PLACED ON CALENDAR

Mr. BYRD. Madam President, I ask unanimous consent that H.R. 2360, an act to provide for a temporary increase in the public debt limit, be placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. No objection.

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

S. 912—RURAL ELECTRIFICATION ACT AMENDMENT

Mr. BINGAMAN. Madam President, today I rise to cosponsor S. 912, a bill to amend the Rural Electrification Act of 1936, legislation that is critically important to this Nation's rural citizens. The distance that many Americans live from urban centers makes the power and benefit of electrification difficult to provide. It was for this reason that the Rural Electrification Administration was established in 1936 to alleviate the burden of electrifying America's rural communities. Rural electric systems serve over 25 million citizens at an average of only 5 customers per mile of line. Even in providing electric and telephone service to such sparse populations, the REA has enabled rural America to become economically viable.

However, this Nation's rural areas are presently in a state of economic crisis. Our agriculture industry continues to be mired in low commodity prices combined with high costs of production. It is obvious that, given the current state of affairs, rural communities can not withstand additional economic set backs. Consequently, I am pleased to add my name to the distinguished group of cosponsors of S. 912, to allow rural electric and telephone borrowers to prepay and refinance their long term high interest loans held by the Federal financing bank with private capital at 100 cents on the dollar. I believe that this legislation will assure that electricity costs in rural communities remain stable and competitive.

Current rural electric and telephone systems operate on loans from the Federal Financing Bank. Many of those loans are locked into long-term interest rates as high as 15 percent. It seems only fair to allow the prepayment and refinancing of these loans without substantial penalties.

Not only does REA loan refinancing make sense in terms of policy, it has a positive effect on the 1988 Federal budget. Loan repayments bring a dollar-for-dollar outlay reduction. In addition, by reducing the debt burden on REA generation and transmission facilities, we lower the risk of possible future nonpayment of these loans. Unlike loan asset sales, the Federal Treasury receives 100 cents on the dollar for prepaid loans.

I believe that the merit in this legislation lies in relieving rural electric and telephone generating stations from the burdens of long-term, high interest loans. Realistic refinancing alternatives are a step in the right direction toward stabilizing rural economies while positively effecting the Federal budget. I strongly encourage my colleagues to support this important legislation.

HARRY LLOYD HOPKINS DEFENDER OF DEMOCRACY

Mr. HARKIN. Madam President, I would like to take a few minutes from the press of national business to pause for reflection on the achievements of a remarkable man from my State, Harry Hopkins. Today, while American leaders work on the great challenges facing our Nation: deficit reduction, international competiveness in trade, nuclear armament reductions, and a sensible foreign policy in Central America, we would do well to take a few moments to reflect upon the challenges facing our Nation 40 and 50 years ago: the Great Depression with its hunger, fear, and unemployment, and World War II with its great challenges to Americans at home and abroad.

History professor George McJimsey, of Iowa State University has recently brought a key figure from that era of hard times, Harry Hopkins, into the spotlight again. Professor McJimsey's new book, "Harry Hopkins: Ally of the Poor and Defender of Democracy" brings new perspective to the Hopkin's remarkable career.

Hopkins was born in Sioux City, IA on August 17, 1890. His father David was a harness-maker and his mother Anna was a deeply religious woman, very active in the affairs of the Methodist Church. He was the last of five children and one of the four sons of David and Anna Hopkins.

Shortly after Hopkins was born, his folks moved successively from Sioux City to Council Bluffs to Kearney, NE. Then to Hastings, NE, and Chicago, IL before settling in Grinnell, IA.

Harry L. Hopkins, who described himself as an Iowa country boy, was the man President Roosevelt chose to implement his New Deal policies. Working closely with the President, Hopkins helped shape and then administer a series of programs to revitalize a nation dying of economic blight.

To him fell the task of putting to useful work the millions of unemployed Americans during the Great Depression. These unfortunate victims of a colossal economic collapse they did not understand or control, shuffled in endless breadlines, sold pencils on street corners, huddled cold and hungry in hovels they fashioned out of corrugated iron sheets or stared with resentful frustration at the locked gates of factories where machinery lay idle and rusting.

Harry Hopkins went into action as soon as he was appointed Administrator of the Federal Emergency Relief Agency on the afternoon of May 22, 1933. In his first 2 hours in office, he galvanized the Nation by disbursing $5 million to a half dozen States to be used immediately to put the unemployed to work. He paid their wages in cash instead of food stamps or scrip, so they could see the rewards of their labor and spend it as they wished. During the next 5 years, he employed nearly 18 million men and women on projects that rebuilt and strengthened the economic framework of America. As head of the FERA, then the Civil Works Administration and finally the massive Works Progress Administration, he embarked on a multitude of projects designed primarily to give jobs swiftly to as many people as possible in keeping with their individual talents and the needs of the Nation. They built and improved highways, constructed schools, hospitals, Federal, State and municipal buildings, libraries, bridges and flood control levees. They taught 200,000 illiterates to read and write. The WPA Federal Writers' project employed authors to write books on the States and cities of the Nation, simultaneously providing jobs for editors, printers, and bookbinders. The American Guide Series stands today as a monument to that effort. Actors, stagehands, playwrights and scenic designers found their niche in the Federal Theater project which brought plays to virtually every city and town in America and brought black actors to Broadway with its production of "The Mikado" with an all-black cast.

Never in history had so much been accomplished in such a short time. Gone was the indignity of the dole which left men poor and idle. Their self-respect restored, they could and still do, look with satisfaction and pride at what they accomplished with their own hands and talents. The effort, which exceeded in magnitude the building of the great temples of ancient Egypt, primed the economic pump of the Nation, permitting private industry and enterprise to resume its proper role.

Hopkins managed all this. He spent $9 billion in public funds, more than any other person had handled up until that time. Not a penny of it stuck to his fingers. Even his detractors attested to his honesty. His example

prompted the same kind of integrity from his subordinates and, although frequent accusations of improprieties were made, no member of his Washington staff or regional and State administrators was ever found guilty of misappropriation of public funds.

In his book "Four Presidents as I Saw Them" Admiral Wilson Brown, who served Presidents Coolidge, Hoover, Roosevelt, and Truman remarked that Hopkins was not always deeply trusted by Roosevelt but grew into this relationship.

In those anxious years (the war years) Roosevelt trusted Hopkins' judgment more than that of any other person in the Cabinet, in the Congress, or in his own Staff. It was not so in the beginning of the administration, however. There were times then when Harry's standing in the presidential favor was very insecure. On week-end cruises on the *Sequoia*, during the days of the W.P.A., I heard the President and Louis Howe berate Hopkins more roughly than I ever heard them talk to anyone else. Harry smartly took the wind out of their sails by admitting that he knew nothing about their complaint, that he should have known about it, and that he had been just plain dumb. Although he disarmed further attack by pleading stupidity, we will knew he was not stupid.

From the beginning Hopkins worked with others to prepare the President's speeches, but I think he might have never gained the position of chief counsellor, had he not gone along on the 1935 cruise aboard the *Houston*. During that month aboard ship he was amusing and not too talkative; we could see that he was wearing well. In that brief association, Franklin Roosevelt found in Hopkins a man after his own heart, one who paid little attention to precedent and red tape and kept the goal always in mind; who was courageous, even audacious, in accepting the gravest responsibilities.

By September 1938, Hopkins shared President Roosevelt's concerns about the threat of war in Europe and the sad state of America's defenses. WPA projects were shifted to include military as well as civilian installations. Barracks and airfields were built, and factories were erected that would soon be used to manufacture aircraft and weapons.

At this point, Harry Hopkins' health, which had never been good, deteriorated rapidly. Unable to absorb proteins in his food, his body wasted away and he spent much of his time in bed or in the hospital. It was not until the early part of 1940 that he felt well enough to go out of doors for walks.

On the 10th of May, the President invited him to the White House for dinner to discuss the implications of Hitler's invasion of the Lowlands. He went, although he felt really ill that evening. At Roosevelt's insistence, he stayed overnight. Here he was to remain for 3½ years as guest of the President. The stimuli of swirling events in Europe and the third term political campaign restored Hopkins to action as no medicine could.

He worked closely with the President on all phases of domestic and foreign affairs. He managed Roosevelt's third re-election campaign and acted as personal envoy for the President between Churchill and Stalin. Hopkins was instrumental in forging the Grand Alliance which brought together the big three powers of the United States, Great Britain, and the Soviet Union.

He was appointed Lend-Lease Administrator and ensured the flow of war materials to our allies. By Stalin's own admission, Russia would have lost the war without Lend-Lease aid. Had Russia lost, the entire might of the Nazi forces would have been thrust at the Armed Forces of Great Britain and the United States. Hopkins organized the conferences abroad which brought Roosevelt, Churchill, and Stalin together to deliberate the strategies of war and peace—conferences in which Hopkins, himself, played an important part. When Roosevelt died, Hopkins retired from Government, but he was recalled by President Truman when the deliberations at the San Francisco Conference broke down due to Russian intransigence, threatening the very existence of the United Nations. Truman sent Hopkins to Moscow where, in lengthy conversations with Stalin, he broke the deadlock.

Truman spoke to Hopkins on the day of Roosevelt's funeral. Truman later reflected on this incident in an interview with journalist Merle Miller.

Well I asked him to come in. I told you how bad he looked, and I apologized for calling him in, but I said I wanted as best he could to tell me about our relations with Russia. He'd been to all those conferences with Roosevelt, to Yalta and the ones at Casablanca and Tehran and I believe Cairo, and he filled me in. He told me everything that he could and it was very helpful indeed.

. . . he really understood Stalin. He told me that afternoon that Stalin . . . he said you could talk to him, and I knew he could, and so in May, when we were having trouble with Stalin—Molotov was threatening not to sign the United Nations Charter. I called Hopkins in again, and I said, "Harry, are you physically able to go to Moscow? If you are, I want you to go over there and tell Stalin to make Molotov sign this Charter."

And he got in a plane and went. He had a three-hour conference with Stalin, and about an hour and a half after that Molotov signed the Charter.

When asked why Hopkins was so successful, Truman responded:

I don't know. I don't know, but he knew exactly how to do it. He talked tough to them all the time. I don't know how he did it, but he got it done. That was the main thing. He always did whatever he promised to do.

And when he got back from Russia, he made a report to me, and he said, "Old Stalin seemed to be very happy to see me, and he said to give his best regards to the President of the United States."

"Well," I said, "I'm exceedingly obliged to you for what you did and I want to thank you for it."

Although President Truman asked Hopkins to remain in Government, he decided to return to private life. In 1942 Hopkins had married Louise Macy and they had moved to New York. Here, in retirement, he planned to write his memoirs, but his health failed rapidly. Sadly, on January 29, 1946, little more than 6 months after serving President Truman, Hopkins died penniless and in relative obscurity in New York City at age 55. Winston Churchill, in his memoirs, said about Harry Hopkins:

He was a true leader of men, and alike in ardour and wisdom in times of crises he has rarely been excelled. His love for the causes of the weak and poor was matched by his passion against tyranny, especially when tyranny was, for the time, triumphant.

Even though more than 40 years have passed since his death, Harry Hopkins deserves recognition as the great American that he was. Appropriately, an effort is under way to have the U.S. Postal Service issue a commemorative stamp in honor of the 100th anniversary of Hopkins' birth in 1990. I happily support this effort and urge my colleagues to do the same. Mr. Hopkins and his high standard of public service deserve this honor.

Additionally, I would like to ask unanimous consent that an article on Mr. Hopkins written by John Hyde of the Des Moines Register be inserted in the RECORD.

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

[From the Des Moines Register, Mar. 31, 1987]

NEW DEAL GIANT HOPKINS RISES FROM HISTORY'S GRAVEYARD

(By John Hyde)

WASHINGTON, D.C.—Among the world's famous figures, few have been more quickly and completly forgotten than Harry Hopkins, the son of an Iowa harness maker who gained immense influence during the presidency of Franklin Delano Roosevelt.

But a group of well-known public figures is attempting to rectify history's error. They have formed the Harry Hopkins Public Service Institute in an effort to restore his historic standing and hold him as an example of selfless service to the country.

Among their efforts is a drive to have the U.S. Postal Service issue a commemorative stamp in his name. In Iowa Monday, the Senate approved a resolution calling for such a stamp.

Hopkins was only 56 at the time of his death in 1946. Some 3,000 people packed his funeral, to remember a man that Winston Churchill had once described as unquestionably the second most powerful man in the United States, perhaps the sixth most powerful in the entire world.

"The country will never even vaguely appreciate the service he rendered," commented Gen. George C. Marshall.

ASHES UNCLAIMED

Having thus paid tribute to Hopkins, the world turned on its heel and never looked back. In the New York City church where his funeral was held, Hopkins' ashes lay un-

claimed for 27 years. His name, when mentioned at all, was usually uttered in connection with a notorious quote—"We're going to tax and tax, spend and spend, elect and elect"—which Hopkins never said.

"This man was truly a great and outstanding human being and public servant," says economist Robert Nathan, who worked under Hopkins at the Commerce Department during the 1930s. "I've seldom had the privilege of being around anyone as astute and direct and truthful as Hopkins. He had unbelieveable commitment to his work, and his integrity was absolute.

"It's a great tragedy to see one of the most important figures of the New Deal forgotten. . . .

"I do believe we're living in a stage when, regretably, there is a tendency to belittle public service. We're driving competent people out of government and I'm afraid we're discouraging good young people from going into public service. . . . We're trying to restore some respect for competence and integrity in public service."

DOCUMENTARY FILM

Among the institute's first projects is preparation of a documentary film on Hopkins, for use by public television and schools.

The institute is also working with officials at Grinnell College, where Hopkins was graduated, to create an annual lecture series on the value of public service.

A book on Hopkins' life, written by George McJimsey, an Iowa State University professor of history, is being published by Harvard Press and is scheduled for release in April.

Nathan serves as chairman of the institute's board of directors, and a "Friends of Harry Hopkins" group has been set up that includes Iowa's congressional delegation, Gov. Terry Branstad, banker John Chrystal and New York Gov. Mario Cuomo—who will be giving the commencement address at Grinnell this spring.

All the attention means the U.S. Postal Service probably will be taking a look at Hopkins as a candidate for a stamp to be issued in 1990, the 100th anniversary of Hopkins birth, a Postal Service administrator said Monday.

The Iowa Senate's resolution, which is expected to also be approved by the Iowa House, will be considered he said.

BRAINCHILD

The Hopkins institute is largely the brainchild of Verne Newton, a native of Humboldt, IA., who served as executive secretary at the Agency for International Development during the Carter administration.

Newton, now an author, was reading some World War II era documents at the National Archives about 18 months ago when he stumbled across a riveting account of a heroic-diplomatic mission conducted by Hopkins in 1941.

Hopkins was desperately ill at the time, the result of a still mysterious ailment that prevented him from receiving nourishment from food. He was kept alive only by continual injections and transfusions.

Though he no longer held an official government position, Hopkins continued to be Roosevelt's closest aide and confidant. "He was deputy president, chief of staff and national security adviser all rolled into one," says Newton. So it was that F.D.R. dispatched him to meet with Joseph Stalin in Moscow and Churchill in London on the eve of America's entrance into World War II.

"The trip was brutal," says Newton. "The plane was very cold, and Hopkins was very frail. . . . When they left Moscow, his medicine was left behind, but he refused to let them return because he was overdue for Churchill. When they arrived in England, the seas were so rough they couldn't land. Hopkins finally ordered them to put the plane down anyway, but he was so weak he couldn't climb off. They had to build a cable to the plane and take him off on a stretcher."

The RAF pilot who flew Hopkins on the mission concluded his account with these words: "As he waved us farewell we could not help feeling that very few persons could have taken what he had endured since we met at Invergarden. . . . We wondered if there was ever any rest for a man so ill and yet showing such unbelievable courage, determination and appreciation for the service of others. His was a noteworthy example of unparalleled devotion to duty."

The pilot's account "struck a chord in me," says Newton. He began to research Hopkins' life and came to the conclusion that it was "an important example of courageous service and was something Americans, particularly since Watergate, should know something about."

Hopkins died "virtually penniless" in New York City.

The paltry nature of Hopkins' estate stands in sharp contrast to the current Washington atmosphere, Newton adds, where Michael Deaver and other White House aides have used their public positions as springboards to enormous wealth.

"The whole notion of public service has changed a lot in this country," says Representative Tom Tauke (Rep., IA.), one of those serving on the Friends of Harry Hopkins board. "One has the impression there were people in earlier generations who were devoted to the idea of public service without the idea of personal return. We need that now."

HAS NUCLEAR WINTER REALLY MELTED DOWN?

Mr. PROXMIRE. Madam President, the time has come to take another hard, long look at nuclear winter. Over the past few years, this Senator has held hearings on nuclear winter. I have expressed my concern here that the climatic effect—the nuclear winter—consequence of nuclear war seriously threatens the continued existence of mankind as a species on this planet. From what this Senator has recently learned, I may have strongly overstated the prospects that a nuclear exchange and particularly a superpower nuclear war would result in a catastrophic change in the Earth's climate. Such a result was alleged by a number of scientists and advanced by this Senator as a drop in the Earth's temperature that could kill much of the Earth's vegetation and cause widespread starvation. A Harvard scholar named Russell Seitz has written a powerful rebuttal of this thesis. In his rebuttal, Seitz quotes a number of authorities to support his position. One of the most impressive is Prof. George Rathjens of MIT. Rathjens is president of the Council for a Livable World. He is a past executive of SANE. Rathjens is quoted as saying: "Nuclear Winter is the worst example of the misrepresentation of science to the public in my memory."

Seitz vigorously attacks the highly influential TTAPS study of nuclear winter. The acronym TTAPS represents the initials of the five respected scientists who authored the study: Richard Turco, Owen Toon, Thomas Ackerman, James Pollack, and Carl Sagan. He charges that the study was based on the assumption that planet Earth was without continents or oceans. He alleges these scholars assumed the Earth to be a "bone-dry billiard ball." As Seitz described it:

> Instead of nights and days, it postulated 24 hour sunlight at one-third strength. Instead of realistic smoke emissions (from the fires ignited by massive nuclear attacks on cities), it simply dumped a 10-mile thick soot cloud into the atmosphere instantly * * * One factor alone, the moderating effect of the oceans—turned out to be the source of a 200 percent error.

Several years ago, this Senator asked representatives of the Defense Department to testify before a subcommittee of the Joint Economic Committee that this Senator chaired. The Defense Department was fully cooperative with the committee. Their witnesses agreed that the nuclear winter threat merited careful study. They also agreed that a study of this possible consequence of nuclear war together with the Soviet Union could provide useful information. In view of the vigor and strength of Russell Seitz' criticism of the widely accepted nuclear winter scenario by the TTAPS scientists, isn't it time for a competent, objective study? This Senator thinks so.

It is imperative that the Congress and the American people understand the full truth about the consequences of nuclear war. If there has ever been any phenomenon which was less in need of myth and exaggeration than the consequences of nuclear war, this Senator cannot imagine it. The United States and the Soviet Union each have more than 10,000 strategic nuclear warheads. Each superpower has additional thousands or tactical nuclear warheads. Both countries are busily adding more warheads to their stockpiles each day. Both France and the United Kingdom have substantial nuclear arsenals. The Chinese also have impressive nuclear strength. We know of the cruel and total devastation of the city of Hiroshima which ensued from the explosion of a single, small, primitive nuclear bomb. We are aware of the similar leveling of Nagasaki from one small nuclear device.

These events occurred more than 40 years ago. We know how much more devastating the tens of thousands of nuclear warheads are today. We know a superpower nuclear war now could mean the destruction of the cities in both countries in a matter of a few hours with the death of a large pro-

portion of the population of both nations. Why do we need the vision of the Earth plunged into months of darkness and years of frigid cold? Why do we need such an additional nightmare to understand the simple fact that a nuclear war would be a total catastrophe? Don't we understand that nuclear winter or no nuclear winter there could be no winners only losers, only the dead, the dying, and the pathetic remnant of two great nations after a nuclear war?

On this nuclear war issue—we need only and only one thing. That is the truth. We need the truth plain. We need it direct. We need no exaggeration. We need no apocalypse. We can live in this nuclear world using deterrence and arms control buttressed by the truth, and only the truth, to prevent the catastrophe of nuclear war. Or like our ancestors throughout history we can blunder into war. But this time war will be different. This time it will be a nuclear war. This time it will be a catastrophe beyond imagination.

Madam President, I ask unanimous consent that the paper by Russel Seitz to which I have referred be printed in the RECORD.

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

IN FROM THE COLD: NUCLEAR WINTER MELTS DOWN

(Russell Seitz)

The end of the world isn't what it used to be. "Nuclear Winter," the theory that a nuclear exchange as small as 100 megatons, in addition to its lethal primary effects, would usher in a life-extinguishing arctic night, has been laid to rest in the semantic potter's field alongside the "Energy Crisis" and the "Population Bomb." Cause of death: notorious lack of scientific integrity. Like those other once-vaunted theories, "Nuclear Winter" has unraveled under scrutiny. Yet not so long ago policy analysts took it so seriously that there is reason to examine its brief life more closely. What emerges from such an examination is a politicization of science sufficient to result in the advertising of mere conjecture as hard fact.

In 1982 a question arose within the inner circle of the world's disarmament activists: Could the moral force of Jonathan Schell's eloquent call to lay down arms, *The Fate of the Earth*, be transformed into a scientific imperative? Psychological strategists of the peace movement were not content with the fearsome carnage of a nuclear holocaust. They had identified "psychic numbing" and "denial" as impediments to mass demands for disarmament, and needed something new to dramatize the horrors of nuclear war. (Dr. Robert Jay Lifton, of the Nobel Prize-winning peace group Physicians for Social Responsibility, originally characterized the "Nuclear Winter" hypothesis as "an imaginative resource.")

A 1982 special issue of the Swedish environmental science journal *Ambio*, inspired, according to its editor, by the work of the Stockholm International Peace Research Institute (SIPRI), considered the broad range of environmental consequences of nuclear war. The preamble to that issue stated, "There is a considerable fear for the continued existence of man on Earth: in the end that fear, as it gains momentum, may well lead to more effective measures for the prevention of a nuclear catastrophe." Ralph K. White put it more succinctly in his book *The Fearful Warriors:* "Horror is needed. The peace movement cannot do without it."

The *Ambio* special issue focused the attention of several foundation executives and concerned peace activists on the environmental consequences of nuclear war, but its limited circulation and scholarly tone did little to evoke a mass reponse of the sort needed to effect a major change in strategic doctrine. One of its articles, however, "Twilight at Noon" by Drs. Paul Crützen and Stephen Birks, contained the seed of what would become "Nuclear Winter."

Russell Peterson, president of the Audubon Society and husband of the editor of the *Ambio* special issue, brought the subject to the attention of Robert Scrivner of the Rockefeller Family Fund. Scrivner, together with Henry P. Kendall Foundation vice president Robert Allen, convened an ad hoc consortium of foundations seeking to promote disarmament as well as scientific organizations with a bend for political activism. Cornell astrophysicist and media personality Carl Sagan began organizing a scientific advisory board that drew heavily on the existing network of activists heading such organizations as the Union of Concerned Scientists (USC), Physicians for Social Responsibility (PSR), and the Federation of American Scientists (FAS). Two dozen foundations and over a hundred scientists were recruited for the project.[1]

While the foundations assembled funding and laid the groundwork for a major public relations and television production campaign, Sagan seized upon the work of Crützen and Birks, who had considered the hypothetical potential for a climatic catastrophe were the fires ignited by a nuclear holocaust to convert much of the fuel in both woodlands and cities into a globe-enshrouding pall of soot. Theirs was a subjunctive disaster, but in the hands of others it would be transformed into an exhortation. Several of Sagan's colleagues and former graduate students had already created computer software to simulate the interaction of sunlight with dust in a postwar environment; now Sagan asked them to augment this less apocalyptic scenario by loading the existing software's "atmosphere" with the hypothetical soot of Crützen and Birks. The paper that eventually resulted came to be known as TTAPS, after the initials of its authors: Richard Turco, Owen Toon, Thomas Ackerman, James Pollack, and Carl Sagan.

Because so much depended on them, the assumptions embodied in the TTAPS software merit a closer look. Instead of a planet with continents and oceans, the TTAPS model postulated a featureless bone-dry billiard ball. Instead of nights and days, it postulated twenty-four hour sunlight at one-third strength. Instead of realistic smoke emissions, it simply dumped a ten-mile thick soot cloud into the atmosphere instantly. The model dealt with such complications as east, west, winds, sunrise, sunset, and patchy clouds in a stunningly elegant manner—they were ignored. When later computer models incorporated these real-world elements, the flat black sky of TTAPS fell apart into a pale, broken shadow that traveled less far and dissipated more quickly. One factor alone—the moderating effect of the oceans—turned out to be the source of a 200 percent error.

One way to see the TTAPS model is as a long series of conjectures: if this much smoke goes up, if it is this dense, if it moves like this, and so on. This series of coin tosses was represented to laymen and scientists alike as a "sophisticated one-dimensional model"—a usage that is oxymoronic, unless applied to Twiggy. For while there might be a "clear possibility" of a dire outcome on any single one of the model's forty elements, the improbability of so long a string of coin tosses all coming up heads is astronomical.

To the limitations of the software were added those of the data. It was an unknown and very complex topic, the hard data was scant, and the rush to publication did not allow time to clarify the true values of the many variables involved.[2] There was no certain knowledge on which to depend, so guesstimates prevailed. Not only were these educated guesses rampant throughout the process, but it was deemed prudent, given the gravity of the subject, to lean toward the worst-case end of the spectrum for dozens of the numbers involved. Political subliminally skewed the model away from natural history; in restrospect, the politics in question can be seen as those of the nuclear freeze movement. No one who is familiar with the malleability of computer projections can be surprised at the result: For an apparently "robust" range of variations, the projected odds on the end of the world ensuring from the scenario in question came out to be, better than even money, when it should have been as much of a longshot as being dealt a straight flush in poker.[3] It was thus, by worst-case analysis run amok, that researchers arrived at the theory presented to the policy community as a hard scientific fact—something so portentous as to militate for a profound revision in strategic doctrine and a transformation of global politics.

BEHIND CLOSED DOORS

"The question of peer review is essential. That is why we have delayed so long in the publication of these dire results," said Carl Sagan in the fall of 1983. But instead of going through the ordinary peer-review process, the mathematical results of the TTAPS study had been conveyed by Sagan and his colleagues to a chosen few at a closed meeting convened in April 1983. Despite Sagan's Claim of responsible delay, before this peculiar review process had even begun a public relations firm had been hired to publicize the results. The Kendall Foundation paid an $80,000 retainer to Porter-Novelli Associates of Washington, D.C., in advance of the meeting and half a year before any scientific publication of the concept. More money was spent in the 1984 fiscal year on video and advertising than on doing the science.

The meeting did not go as Sagan presumably had hoped; most participants interviewed by this author do not describe the reception accorded the "Nuclear Winter" theory as cordial or consensual, and Sagan himself has repeatedly refused to release the meeting's transcript. (The meeting's organizers have said it was closed to the press to avoid sensationalism and premature disclosure.) According to Professor Kosta Tsipis of MIT, even one of the Russian scientists at the meeting said, "You guys are fools. You can't use mathematical models like these to model perturbed states of the atmosphere. You're playing with toys."

[1] Footnote at end of article.

With funding for popularizing assured, however, the show went on, with a $100,000 conference on The World after Nuclear War in Washington, D.C., at the end of October.[4] Simultaneous with the conference came the public premiere of the "Nuclear Winter" hypothesis—an October 30, 1983, article by Carl Sagan in the Sunday supplement Parade. The peer review process at Parade presumably consisted in the contributing editor conversing with the writer, perhaps while shaving—Sagan is both.

Over a month later, the TTAPS results at last appeared, as the leader in Science magazine (December 23, 1983). This is the very apex of scholarly publication, a place and format customarily reserved for a review article expounding a mature addition to an existing scientific discipline—one that has withstood the testing of its data and hypotheses by reproducible experiments recorded in the peer-reviewed literature. Yet the many complex variables necessary to operate the model and the uncertainty associated with the value of each element operated upon by the software were not explicitly set forth in the text of that article. They were instead reduced to one line amongst pages of footnotes accompanying the text—a line that said, simply, "In preparation." Which is where the critical details have remained, languishing in unpublished obscurity ever since. The TTAPS "Nuclear Winter" business, from its inception until the transfer of the computer codes into the custody of the Pentagon in 1986, remained a closed shop, one that tended to dismiss any criticism, however, valid, as envelope-back nitpicking by the insufficiently informed. It is no small irony that the TTAPS software became accessible to the scientific community at large only be viture of its arrival in the assist secretary of defense's office; the government, unlike scientists, is obligated by the Freedom of Information Act to turn over the software to all comers.

One week after the publication of the TTAPS article in Science another trade—"Nuclear War and Climatic Catastrophe"—appeared under Sagan's name, in Foreign Affairs (Winter 1983-84). This opened the policy debate, with Sagan arguing that, because of the TTAPS results, "What is urgently required is a coherent, mutually agreed upon, long-term policy for dramatic reductions in nuclear armaments. . . ." Scientists at large had one Yuletide week in which to chase down over 100 references and to consider what would become the received wisdom in policy circles.

In seeking to maximize the impact of the TTAPS work by publishing almost simultaneously in Science and Foreign Affairs, Sagan made mistakes attributable to haste; his Foreign Affairs article cities several passages from a companion piece in Science,[5] passages that did not actually appear in the published version of the later article. One of the passages quoted, for example, runs as follows: "*In almost any realistic case* involving nuclear exchanges between the superpowers, global environmental changes sufficient to cause *an extinction event equal to or more severe than that at the close of the Cretaceous when the dinosaurs and many other species died out are likely* [emphasis added]." The ominous rhetoric italicized in this passage failed to pass peer review and never appeared in the scientific literature. Yet, having appeared in Foreign Affairs, it has been repeatedly cited in the literature of strategic doctrine as evidence.[6]

Sagan's Foreign Affairs article begins: "Apocalyptic predictions require, to be taken seriously, higher standards of evidence than do assertions on other matters where the stakes are not as great." The editor of Foreign Affairs at the time, William P. Bundy, remarked in the note that prefaced the issue, ". . . we were initially skeptical. We were presuaded otherwise by [Sagan's] extraordinary effort not only to set down his own conclusions but also to get comment on them from a large number of experts approaching the subject from many standpoint."

Rather than "higher standards of evidence," Sagan provided testimonials. He had sent return-mail, Federal Express questionnaires to the nearly 100 participants at the April meeting, and from the replies he culled his favorite two dozen quotations. What became of the hard copy of the less enthusiastic reports remains a mystery, but it is evident from the subsequent comments on the record of many of those whose opinions were solicited that something less than the unanimous endorsement of "a large number of scientists" (Sagan's phrase) is closer to the truth. Professor Victor Weisskopf of MIT, one of the first to hear Sagan's presentation firsthand, presciently sized up the matter in early 1984: "Ah! Nuclear Winter! The science is terrible, but—perhaps the psychology is good."

From the start, respected scientists in the field have remained skeptical, if not derisive, of the claims made by the "Nuclear Winter" theorists. These critical voices were not heard, however, because—like studios releasing a movie without prior screenings to avoid negative reviews—Sagan and his colleagues took their case over the heads of their fellow scientists, directly to the public at large. When the research was criticized, it was not in public forums and television studios, but in scientific journals and private discussions. Many scientists were reluctant to speak out, perhaps for fear of being labeled reactionaries, hawks, or closet Strangeloves—acolytes of "nuclearism," the new cult that Dr. Lifton claims to have discovered. For example, Nobel laureate physicist Freeman Dyson was critical in early 1984, but elected to keep his views off the record (they were subsequently made known by a congressional aide). As he put it, "It's [TTAPS] an absolutely atrocious piece of science but I quite despair of setting the public record straight. I think I'm going to chicken out on this one: Who wants to be accused of being in favor of nuclear war?"

Any atmospheric scientist daring to rock the boat three years ago faced both the formidable uncertainties of the science and the social pressure of his peers: It was the Oppenheimer-Teller confrontation revisited. Nuclear ethics had transcended doing the science. Most of the intellectual tools and computational power necessary to demolish TTAPS's bleak vision were already around in 1983; the will, and perhaps the courage, to utilize them was lacking. From leading scientists one heard something of a refrain: "You know, I really don't think these guys know what they're talking bout" (Nobel laureate physicist Richard Feynman, Cal. Tech.); "They stacked the deck" (Professor Michael McElroy, Harvard); and, after a journalist's caution against four-letter words, "'Humbug' is six" (Professor Jonathan Katz, George Washington University). But while all this was going on behind the cordial and collegial marble facade of the National Academy of Sciences, quite different trends were evident in print and on television.

PHYSICS MEET ADVERTISING

From 1984 to the present, despite the appearance of four generations of more realistic calculations, the unrevised time/temperature curves of the "Nuclear Winter," as originally set forth in Science and Foreign Affairs, have been widely reprinted, often with Sagan's complete text, and usually without strong caveats about uncertainty. These artifacts of calculation are cited as the final word on the subject in volumes dealing with everything from the philosophy of deterrence to climate change. No fewer than six books in the "Nuclear Winter" genre have appeared, often to lavish reviews in international foreign policy journals and the press. A popular review of The Cold and the Dark in the San Francisco Chronical went so far as to claim that it could be "the most important book ever published," with greater effect on human history than "the Odyssey, the Bible, the Koran, or the collected works of William Shakespeare."

"Nuclear Winter" has proved a boon to commercial artists as well as to publishers. With funds aplenty at their disposal, "Nuclear Winter's" publicists commissioned serveral renditions of The End. An example of this environmental surrealism may be seen on the dust jacket of The Cold and the Dark. The artistic technique is forthright: first, paint a rendition of the earth as seen from deep space; second, fill your airbursh with acrylic flat black and obliterate the northern hemisphere; finally, deposit squiggles of the darkest hue on whatever nations of the southern hemisphere your fancy dictates or your patron requests. Another airbrushed vision for nature lovers shows a dead whale belly-up in a charcoal sea. The works of this atelier, rendered as color slides, were distributed to every television station that would have them. In consequence, upwards of a hundred million viewers had seen these new icons of the Apocalypse before the scant hundred thousand readers of Science had read of "Nuclear Winter."

The visual aids that accompanied the "Nuclear Winter" media campaign are no trivial matter; in many ways, the iconography is more important than the research it illustrated. Science is not generally identified with semiotics, the creation and manipulation of symbols. Yet the perceived need for emblems that would motivate popular concern about disarmament certainly antedates the technical controversy over "Nuclear Winter," and it is as a symbol that "Nuclear Winter" would seem most likely to survive. Behold the glacial darkness of the movie Threads (the British equivalent of The Day After), and scientifically obsolete docudramas like On the Eighth Day. Such lurid videotapes, as eschatological as anything televangelists have to offer, continue to be used by activists around the world in an unrelenting effort to impress this new Day of Judgment on the popular imagination. Activists asked scientists for a consciousness-raising tool and were given a secular Apocalypse with which to preach for our deliverance from nuclear folly.[7]

While its effect on both policy studies and popular culture was comparatively ephemeral in the United States, "Nuclear Winter" proved enormously potent elsewhere in the world. In India and Brazil, Canada and Greece, Sweden and Tanzania, Sri Lanka and New Zealand, statesmen declared that a new era of global interdependence was at hand. The dissemination of videos, graphics,

and pamphlets throughout the world by the Center for the Consequences of Nuclear War, Britain's Scientist Against Nuclear Arms (SANA) and the group European Nuclear Disarmament (END) was combined with a lobbying effort at international conferences on four continents. A "Peacelink" satellite conference spread the word to physicians in Tuvalu, Vanuatu, Kiribati, Nauru, Samoa, Fiji, and Tonga (countries that have since declared the South Pacific a "nuclear free zone"). In the Delhi Declaration of January 28, 1985, six nations pronounced that the use, "even on a limited scale," of nuclear weapons "would trigger an arctic Nuclear Winter" and "transform the Earth into a darkened frozen planet." New Zealand's Prime Minister Lange was not silent: "We in New Zealand like to think of ourselves as living in a sort of antipodean Noah's Ark. But with the coming of the Nuclear Winter we know we will freeze with the rest of you."

A DEAF EAR TO GOOD NEWS

If there was a ready audience for the initial TTAPS results, scant attention was paid to the scientific work that followed. While the apocalyptic scenario played to audiences worldwide, a series of unheralded and completely unpublicized studies started to appear at scientific conferences and in the learned journals—studies that, piece by piece, started to fill in the blanks in the climate modeling process that had previously been patched over with "educated" guesses.[8]

The result was straightforward: As the science progressed and more authentic sophistication was achieved in other models, the postulated baseline effects headed downhill. By 1986, these effects had undergone a devolution from hundreds of days of thirty-below temperatures in pitch darkness throughout this hemisphere to a few weeks of patchy and barely autumnal inclemency; the once global hard frost had retreated from the tropics to the tundra of Labrador and northeastern Siberia. Sagan's elaborate conjecture had fallen prey to Murphy's lesser known Second Law: If *everything* must go wrong, don't bet on it.

By June 1986 it was over: In the Summer 1986 *Foreign Affairs*, National Center for Atmospheric Research (NCAR) scientists Starley Thompson and Stephen Schneider declared, "On scientific grounds the global apocalyptic conclusions of the initial nuclear winter hypothesis can now be relegated to a vanishingly low level of probability."

While a new paradigm of chiaroscuro clouds and cool spells on a local scale was forming within the tiny community of atmospheric scientists, the larger world of the international scientific establishment began to announce the results of the first generations of interdisciplinary ecological and climatological studies that had followed the TTAPS results. These were eagerly awaited by the press, which was not to be disappointed.

Fed journalists examined critically these ecological meta-models. Most merely perused the media materials that *preceded* publication. Science journalists (especially those who had been lobbied by the subject's advocates)[9] proceeded to inform the public that things were looking worse than ever. Bold headlines carried casualty estimates that ran into the proverbial "billions and billions." The process culminated in the reception afforded to both the reports of the National Academy of Sciences (NAS) and the Scientific Committee on Problems of the Environment (SCOPE).[10] Both reports stressed the uncertainties that plagued the calculations then and now. The NAS report, "The Effects on the Atmosphere of a Major Nuclear Exchange," while depending on calculations performed by Turco et al., scrupulously excluded the expression "Nuclear Winter" from its 193 pages of sober text, but the report's press release was prefaced "Nuclear Winter . . . Clear Possibility.' "[11] Sagan construed the reports to constitute an endorsement of the theory. The response of television and most major newspapers seemed to validate his reading: In September 1985 the *Washington Post* carried a front-page story on the 728-page SCOPE report headlined "Scientists Estimate 2.5 Billion Could Perish in Nuclear Winter Famine."

The gap between the public vindication and scientific evisceration of the "Nuclear Winter" conjecture is illustrated by the experience of NCAR's Dr. Stephen Schnieder. In February 1986 he quietly informed a gathering at the NASA-Ames Laboratory that, after five generations of ever more sophisticated models, "Nuclear Winter" had succumbed to scientific progress and that, at worst, "The Day After" might witness July temperatures upwards of +50° in mid-America. The depths of "Nuclear Winter," in other words, could no longer be distinguished from the coolest days of summer. On March 5, however, Schneider appeared on the nationally televised PBS/NAS series *Planet Earth*. The scene, videotaped two years earlier, showed him at the display screen of a Cray supercomputer. On the screen was the output of a climate model emulating TTAPS in its original form. Only one temperature appeared, smack atop Kansas on the computer graphics map: −51° C. The series' producers had overruled a NAS advisory panel member who had requested the deletion of the "Nuclear Winter" segment. Instead, the final episode, "The Fate of the Earth," featured it on an equal footing with the "Greenhouse Effect."

In 1985, within and away from the United States word spread on the scientific grapevine: TTAPS was not the final word on the subject. As the truth slowly emerged, private skepticism turned to public outrage in many quarters, and not just among the "hawks." Attesting to a deep-seated revulsion among scientists against false or selective citation and suppression of evidence in defense of a desired conclusion, Professor George Rathjens of MIT, president of the Council for a Livable World and past executive of SANE, offered this judgment: "Nuclear Winter is the worst example of the misrepresentation of science to the public in my memory."

The following incident is illustrative: The early review copies of the SCOPE report contain a discussion of the usefulness of comparing smoke injected into the atmosphere by the huge 1915 Siberian wildfires with the amount that would be injected by a nuclear war. The review copy cites the area burned as "several hundred million hectares" (several million square kilometers). The failure of such a massive smoke injection to provoke a "Nuclear Winter"-type catastrophe casts some doubt on the claims of the "Nuclear Winter" researchers. When this author pointed this out to Dr. Turco (the first "T" in TTAPS) in 1985, he had the size of the fires reduced in the published text to only "some ten million hectares." If history could be rewritten to reduce radically the area burned, the fact that no catastrophe resulted would be less damaging to the TTAPS thesis. Unfortunately for Turco, the computing center of the USSR Academy of Sciences, citing contemporary sources,[12] had already referred to these "gigantic" fires as having an area of 1.4 million square kilometers. The final version of the SCOPE report thus consigned a million square kilometers of real estate to oblivion.

The misrepresentation culminated in the equation of the climatic effects of a nuclear war and those of the putative asteriod impact that "killed" the dinosaurs. The model used in TTAPS was indeed used to reconstruct the effects of such an asteriod impact after the hypothesis became fashionable in 1980, and did show horrendous results. "Like Nuclear Winter?" asked Ted Koppel on a 1985 Nightline; "Exactly!" replied Sagan. What Sagan neglected to point out, however, was that the understandably catastrophic results of a 10-kilometer sphere of rocky iron striking the earth would have been the product of a blast estimated at over one hundred million megatons—20,000 times more than the 5000-megaton "baseline" scenario of TTAPS and worse than its 100-megaton baseline by a factor of a cool million. In other words, comparable to a nuclear war only if every man, woman, and child on earth were to explode his own Hiroshima-sized bomb.

On January 23, 1986, the leading British scientific journal Nature pronounced on the political erosion of the objectivity vital to the scientific endeavor: "Nowhere is this more evident than in the recent literature on 'Nuclear Winter,' research which has become notorious for its lack of scientific integrity." Yet months later the New York Times reported as the last word on the subject the conclusion of Sir Frederick Warner, the treasurer of SCOPE, that there would be four billion deaths from the synergy of "Nuclear Winter's" effects on our environment. When, in light of the new evidence, Thompson and Schneider published their change of mind on Sagan's conjecture in Foreign Affairs, the silence was deafening—no new movies appeared to publicize its demise. Without a determined media counteroffensive, the climate modelers' conditional surrender will unfortunately do little to shake the hold of the concept on the public's imagination. Given the durability of videotape and the activists' access to the airwaves, the retrograde popular perception of "Nuclear Winter" may endure into the next century.

THE WAY IT WORKS

The easy acceptance of a shaky scientific conjecture by large portions of the media as well as significant portions of the foreign policy establishment requires no conspiracy theory. In fact, in some respects, the successful marketing of the "Nuclear Winter" concept has been remarkable for its openness. One can find an explanation, rather, by examining the sociology of the scientific establishment, its patrons, and its claim on the attention of both the media and policymakers.

Opinion polls indicate and common sense suggests that the public regards the scientific profession as a bulwark of objectivity and credibility in an othewise untrustworthy world. But as William Broad and Nicholas Wade conclude in Betrayers of the Truth, "Science bears little resemblance to its conventional portrait. . . . In the acquisition of new knowledge, scientists are not guided by logic and objectivity alone, but also by such non-rational factors as rhetoric, propaganda and personal prejudice." The scientific com-

munity is not that much different form other groups whose ethical constitutions are thought to be less demanding. But the notion of a special social responsibility of science, which arose in large measure from the Manhattan Project and its aftermath, has been cultivated for two generations by the politically active. By the very fact of their activism, politically motivated scientists—and more recently physicians, engineers, educators, and computer professionals, each gathered separately under the rubric "for social responsibility"—have achieved an easy dominance in matters of science and public policy.

This dominion over a variety of organizations and journals has accelerated in its extent and impact in recent years, gaining momentum from the anitwar movement of the 1960s and the environmental concern of the 1970s. At present, for example, the Federation of American Scientists (FAS) and Union of Concerned Scientists (UCS) exercise an almost unopposed and largely invisible role as a coherent force for political action and editorial direction in a broad coalition of organizations and foundations—educational, scientific, and journalistic.[13] Through historians of science have long been familiar with the role of "Invisible Colleges" in the advancement of new theories and disciplines, the powerful synergy operating between this coalition of politically concerned scientists and policymakers, and media eager to report trends in scientific fashion, has gone remarkably unnoticed. Political and ideological motivation have kept pace with the exponential growth of science. If they occasionally threaten to overwhelm the integrity of scientific endeavor, it is nearly always with the best of intentions—in this instance, saving the world.

When the president of the American Association for the Advancement of Science (AAAS), which publishes *Science,* acts also as the publisher of *Scientific American,* while both he and the president of the American Physical Society serve on the interlocking boards of the FAS, the UCS, the Arms Control Association and the Pugwash movement, one would be surprised if those organizations' politics were not reflected in the content of scientific journals.[14] Nor would one be surprised that science journalism in print and on television takes its lead from those primary sources. In the case of *Scientific American* this has long been evident in the alternation of purely scientific lead articles and ones that are concerned with public policy or the conduct of diplomacy.[15]

When a decisive number of the scientific advisers of the MacArthur Foundation, to take just one example, are drawn from the board of the FAS and the masthead of the Bulletin of the Atomic Scientists, it should surprise no one that political and scientific agendas merge into a single fabric—and benefit from an integrated cash flow. (Despite the fall from grace of the "Nuclear Winter" scenario, the author of the phrase, Dr. Turco, recently received a MacArthur "genius" award.) If the resources of major scientific organizations cannot be brought to bear on a subject, another level of direct action on specific projects exists. The UCS chairman is Professor Henry Kendall, scion of the family whose foundation the reader may recall. It was a Kendall Foundation executive who handed over the check in 1983 which retained Porter-Novelli Associates and inaugurated the media campaign on "Nuclear Winter."

Even the National Academy of Sciences, an institution whose credibility depends on congressional perceptions of its neutrality, has been politically transformed in recent decades by the election of a series of officers closely identified with the Office of the Presidential Science Adviser under Presidents Kennedy, Johnson, and Carter. (The Academy first deviated from its customarily strict outward neutrality with an extraordinary 1982 manifesto on arms control.) With their tenure has come a change in the staff that interacts with Congress (via the Office of Technology Assessment) and the media, as well as the emergence of a significant group of personnel linked via fellowships and internships to the orbit of the FAS and the UCS. This phenomenon seems to be a stable and perhaps permanent one; certainly, the ascendancy of the broad movement encompassing Physicians for Social Responsibility and the Federation of American Scientists (which styles itself "the conscience of American science") does not bode well for a return to the era when scientists regarded political endeavor by those within their ranks as barely deserving of even extracurricular sanction. The tendency away from objectivity has reached alarming and notorious dimensions in the overselling and subsequent stonewalling that have characterized the "Nuclear Winter" episode.

But it is by no means solely within the halls of science that responsibility lies or where redress and the prevention of a recurrence must be sought. Policy analysts have demonstrated themselves to be chronically incapable of distinguishing where science leaves off and the polemical abuse of global systems models begins. Non-scientists tend to regard mainframe computers as engines of seraphic power and complexity in comparison with the puny word processors at which they sit. Their confusion is compounded by a naive belief that mathematical models of complex dynamic systems are something more than models. The interdisciplinary software that embodies the "Nuclear Winter" hypothesis is complex to an intimidating degree, and the indistinct boundary between the often hallucinatory world of computer simulations and the rigor of hard science scarcely exists in the minds of the marginally computer literate. The results of this confusion can indeed be serious, and in this context it may be useful to recall a previous example of the "Garbage In, Gospel Out" phenomenon—the "Energy Crisis."

When the fashionable resource depletion curves of the Limits to Growth models, and notably Jay Forrester's econometric model, were linked via television with the gas station lines produced by the 1973 Arab oil embargo, the public became convinced that we were doomed to global energy scarcity amidst Malthusian population growth. Forrester's model gained almost universal credence. As with "Nuclear Winter," the appearance of consensus was easily assembled. Independent international corroboration? The Club of Rome, OPEC, and the London School of Economics were swift to concur. (As was the Soviet computer jockey who recently hastened to "corroborate" "Nuclear Winter": It was the same Dr. Moise'ev of the Moscow State Center for Computer Science who had emulated Forrester's software a decade previously.) Forrester's software was supposedly every bit as robust as that of the "Nuclear Winter" model, and was just as broadly endorsed.

The consensus seemed real enough. An orgy of spending, lending, economic dislocation and subsequent political instability ensued, justified by a fervant belief in the "scientific" vailidity of a linear econometric program run on an IBM-360 and its projection of $50-a-barrel oil forever. By 1978, the energy crisis had become a major intellectual industry as well as an industrial phenomenon. Yet despite its indisputable, indeed dominant, political significance in the 1970s, it was largely devoid of economic meaning.

Just as the political significance of "Nuclear Winter" resides, inviolable, in the videotapes produced by its partisan activists, immune to the stripping away of its scientific meaning by progress in atmospheric physics, so all the changes wrought by perceptions of the "Energy Crisis" are past being undone by the mere fact that we are now in the midst of an "oil glut." Factoids, be they scientific or economic, have a strange life of their own; woe to the polity that ignores the interaction of science, myth, and the popular imagination in the age of the electronic media.

PROPHETS NEW AND OLD

Throughout history, the most eminent practitioners of the ancient profession of predicting the end of the world have been reluctant to reveal to the uninitiated the interior mysteries of their revelations, preferring instead to present their audiences only with the final word. If we consider the Comet Halley scare of 1758, for example, we can see that Carl Sagan is but following in the footsteps of a master.

As that year approached, European savants began to consider the prospect of the confirmation of Newton's laws of motion by the return of the Great Comet of 1682. It also caught the attention of the Rev. John Wesley, who exhorted his listeners that, upon meeting the comet's fiery tail, "The earth would be set afire and burnt to a coal." He offered his audiences a simple prescription: repent and join the Great Revival. A Mr. Paul Gemsege, who in those pre-Freudian days was innocent of the gravity of "psychic numbing" and "denial," was swift to reply to Wesley in a letter to the *Gentleman's Magazine* on the "cruelty of terrifying weak minds with groundless pains." Gemsege observed that Wesley was invoking not merely Holy Writ but a member of the Royal Society, "the excellent and accurate Dr. Halley," and that the founder of Methodism had simply (or conveniently) confused the predictable comet of 1682 that bears Halley's name with the trajectory of another comet—the erratic celestrial visitor of 1680 (which will not return until around 2250).

Gemsege's rejoinder doubtless gave rise to a sigh of relief among the Georgian establishment, just as the recantation by the NCAR researchers in *Foreign Affairs* put the policy establishment back on firm ground after three years in the wilderness. But how could Gemsege reach the populace of rural Britain, where Wesley continued to preach? Likewise, Thompson and Schneider's candid revisionism can do nothing to erase the apocalyptic vision which troubles the minds of viewers in the southern hemisphere who are aware of "Nuclear Winter" only through the televised versions of Sagan's scenario.

Very little seems to have changed since Gemsege wrote, in 1756, what may be the last word on the present hazards of nuclear polemics:

"Authors who throw out such important particulars as these, though it be done with

the best design in the world, should be very sure of their hand, before they alarm us with their notices, lest the subjecting of weak minds to groundless panics, should contribute to embitter their lives, which has in it something most very cruel, and even criminal.

". . . *As the tree falls, so it must lie.* A reflection, if it is considered withal, to how many real disasters, without having recourse to any imaginary ones, the life of man is daily exposed, will be abundantly sufficient, for the purpose of true religion. That is, to make men think on the judgment of the Great Day, and therefore, there is no occasion to unsettle their minds by any unreasonable fears that, as they tend so greatly to distract them, instead of doing them any service, are likely in the end to do them a great deal of harm.[11]

The great and undistracted exercise of the judgment and vigilance of statesmen and scientists alike is vital to the avoidance of nuclear war. The relationship of scientists and policymakers should be fiduciary; but if neither group is possessed of good enough courage to practice an integral standard of internal candor in the face of benumbing horror, both will remain hostages to zeal.

Historians of science may one day view this entire episode as a bizarre comedy of manners; having known Sin at Hiroshima, physics was bound to run into Advertising sooner or later. But what about the politics of this issue? Does all this matter? Sagan evidently thinks it does. Characteristically, he has taken the trouble of responding to the new generation of critical scientific studies by hiring a cartoonist. An animated version of his obsolete apocalypse has been appended to his updated television documentary "Cosmos—A Special Edition." Throughout this fall, prime time audiences worldwide will watch in horror as the edge of darkness overspreads planet Earth. They will hear Sagan prophesy that the Reagan administration's SDI program will provoke so overwhelming an increase in Soviet missile throw-weight as virtually to guarantee our frigid end.

Sagan also invites readers of the Fall 1986 issue in *Foreign Affairs* to believe that "a purely tactical war, in Europe, say, . . . may still produce nuclear winter." Be it a 25,000 megaton scenario in 1983, or neutron bombs on 1987, *plus ça change* . . . Marshall McLuhan was right on the mark—with the advent of television, advertising *has* become more important than products.

What is being advertised is not science but a pernicious fantasy that strikes at the very foundations of crisis management, one that attempts to transform the Alliance doctrine of flexible response into a dangerous vision. For "Nuclear Winter" does exist—it is the name of a specter, a specter that is haunting Europe. Having failed in their campaign to block deployment of Nato's theater weapons, the propagandists of the Warsaw Pact have seized upon "Nuclear Winter" in their efforts to debilitate the political will of the citizens of the Alliance. What more destabilizing fantasy than the equation of theater deterrence, with a global *gotterdammerung* could they dream of? What could be more dangerous than to invite the Soviet Union to conclude that that Alliance is self-deterred—and thus at the mercy of those who possess so ominous an advantage in conventional forces?

Dr. Sagan and the Physicians for Social Responsibility may deny that their good intentions could lead anywhere but to massive disarmament. But nowhere is "psychic numbing" more evident than in their incomprehension of Livy's timeless observation: where there is less fear, there is generally less danger. Until they come to apprehend it, nuclear illusions, some spontaneous and some carefully fostered, will continue to haunt the myth-loving animal that is man.

FOOTNOTES

[1] See *Foundations Magazine*, March 1984, for an account of the preliminary meetings convened by Scrivner and Peterson. For listing of the foundations that eventually provided funding and support, see the acknowledgment section of *The Cold and the Dark: The World after Nuclear War*, Paul R. Ehrlich, Carl Sagan, et al. (New York: Norton, 1984).

[2] Sagan specifically requested and lobbied for a special status designated "accelerated publication" for the TTAPS paper in *Science*.

[3] Dr. Ackerman, the "A" in TTAPS, remarked candidly in 1984 of the model's results, "It doesn't necessarily mean that the temperature is going to go down 30 to 40 degrees [Centigrade]; what's important is [the model has] never displayed such a large response to parameter forcing before." In layman's terms, flooding the atmosphere with soot (instead of dust) finally provoked the dramatic results they had been looking for.

[4] The offerings at this conference were later published as *The Cold and the Dark*, and quickly became accepted as an authoritative text on the subject. Yet the text reveals that Sagan's performance at the conference was not replete with honesty—his denial on pages 33 and 34 that the TTAPS results depended on a soot-filled stratosphere is contradicted on page 193, where it emerges that some 30 percent of the black carbon was assumed to be in the stratosphere.

[5] Published simultaneously with TTAPS in *Science* 223 (December 23, 1983) was "The Long-Term Biological Consequences of Nuclear War," by Paul Ehrlich (of *Population Bomb* fame), Sagan, and a dozen-odd co-authors. Harvard Professor Michael McElroy has remarked of this piece, "It was a paper in which the conclusions were reached beforehand, without any consideration of the evidence . . . a political document rather than a scientific document."

[6] General Sir John Hackett, for example, informed the British military establishment on November 14, 1985, that "Human life would disappear, of course, and this planet, an irradiated charnel house, would revolve endless through time and space in continuous cold, dark winter."

[7] How some activist scientists conceive their role is illustrated in literature meant "only for these [peace] organizations" represented at a convention of the group European Nuclear Disarmament held in Amsterdam in 1985. In a document titled "The Role of Scientists in the Peace Movement," this summary is given of a report by Professor Michael Pentz, "Founding Chairman of SANA-UK": "The principal activity of 1984 was in connection with Nuclear Winter and provided a clear illustration of the concept of 'leverage' that was adopted by SANA-UK at its Inaugural Conference [1981], when the decision was made that SANA should be a 'tool-making' organisation rather than a campaigning one. Working through more powerful organisations and public institutions SANA, with a small membership of about 700, has been able to have an impact on public and political awareness that is out of all proportion to what could have been achieved by direct means."

[8] For example, "Atmospheric humidity in the nuclear winter," J. Katz, *Nature* 311:917; "Three Dimensional Climate Models in Perspective: A Comment," Paltridge and Hunt, *Ambio*, Summer 1984; and "Smoke production from multiple nuclear fires in non-urban areas," Small and Bush, *Science* 229: 465-69: a paper examining the empirical distribution of combustible materials in the countryside and revealing that the TTAPS estimates were too high by an order of magnitude.

[9] According to several sources, the New York chapter of the Association of Science Writers was addressed by Dr. Lewis Thomas, who pleaded eloquently for a dispensation from critical inquiry into how "Nuclear Winter" was faring.

[10] SCOPE co-author Dr. Barrie Pittock, interviewed at the NAS in September 1985, responded to an inquiry as to the absence of his colleague Dr. Paltridge from the Australian contingent of climate scientists traveling to the international conferences that led to the SCOPE report's publication by replying, "Paltridge! He's too conservative."

[11] The president of the NAS, Dr. Frank Press, had already put "Nuclear Winter" on page five of his best-selling geophysics textbook *Earth*.

[12] V. B. Shostakovich, "Lesnye Pozhary v. Sibirii/1915," *Ocberki po Zemledeliiu Vostocbnoi Sibirii*, Vol. 47, Irkutsk 1924 *inter alia*.

[13] This extends to textbook publishing as well. Consider John B. Harris and Eric Markusen's core text, *Nuclear Weapons and the Threat of Nuclear War* (Harcourt Brace Jovanovich, 1986), produced in conjunction with the Nuclear War Education Project under FAS sponsorship. It provides only one primary text on "Nuclear Winter"—Carl Sagan's *Parade* article.

[14] Of the fifty or so members of the scientific advisory board of the World after Nuclear War conference, twelve of the most active are affiliated with the FAS, seven with the UCS, and three with PSR.

[15] For example, *Scientific American* has elected to leave its readers out in the cold and the dark about the revisionist article in *Foreign Affairs*. Their "Science and the Citizen" column (September 1986) carried an Orwellian defense of the TTAPS results against the evidence of "Nuclear Winter Reappraised." Dr. Thompson, a co-author of the latter, upon first hearing that his new results "seem to be in keeping with what the TTAPS report predicted" burst out laughing. Despite the fact that the new worst-case scenario involves temperatures dipping barely below +55° F for a week and recovering to the seventies in a month, *Scientific American* reports that "Sagan also maintains that in addition . . . the climate effects would indeed 'raise the death toll' perilously close to the total number of people on earth."

RAYMOND LOSORNIO: A FINE AMERICAN

Mr. HELMS. Madam President, it is difficult to measure the worth of any one person to a nation. But certainly our Nation, which so dearly cherishes each individual's right to live free of coercion, is much the better because of the life of Raymond Losornio.

If ever there was an individual who took our Nation's promise of freedom to heart, and who strove to extend freedom to others, it was Mr. Losornio.

An Oklahoma native, he was a longtime champion of the right to work movement, serving with distinction as chairman of the National Right to Work Committee's board of directors until his death last year. He helped lead a 1964 campaign for a State right to work law in Oklahoma and in 1968 served as president of Oklahomans for right to work.

Madam President, under his stewardship, national right to work forces posted some of their most historic victories against compulsory unionism.

In 1975-76, free-choice advocates repelled big labor's "common situs" picketing assault, and in 1978 defeated union officialdom's so-called labor law "reform" drive.

Mr. Losornio's simple yet powerful motto right to work: No compromise.

"I just cannot see how any man can compromise even the slightest when his own freedom and the freedom of millions of his fellow Americans is at stake," he once said.

Mr. Losornio applied his belief in right to work equally to workers who chose to be voluntary union members.

As assistant comptroller and budget officer for the Army Corps of Engineers, Mr. Losornio was a voluntary member of the National Federation of Government Employees and a past president of union local 386 in Tulsa. He knew well the evils of compulsory unionism and, conversely, of discrimination against union members. As a result, he fought tirelessly to extend right to work protections prohibiting discrimination on the basis of union membership.

The hallmark of Mr. Losornio's 16-year tenure as board chairman was his steadfast refusal to compromise on workers' basic right to make their own choices about union membership. On more than one occasion union officials applied pressure to Mr. Losornio and his superiors in attempts to quash his advocacy of right to work. His outspokenness continued unabated, and the union hierarchy finally abandoned its attempts to silence him.

Madam President, I salute the remarkable achievements of Raymond Losornio during his lifetime of devotion to the defense of freedom.

LIBERTY CENTENNIAL MEMORIAL TREES

Mr. HELMS. Madam President, trees are such an important part of our lives that we too often take them for granted, assuming that they will be there when we need their cooling shade, their fruit and nuts, relief from sights that we may consider eyesores, some protection from the distracting cacophony of passing traffic, or simply the beauty of their silhouettes, colors, flowers, scent, or whispering of gentle breezes through their leaves.

Rarely do we stop to reflect that such simple pleasures and benefits could not be ours had it not been for the farsightedness of our forefathers, many of whom departed this life a long time ago. It was they who planted and nurtured the very trees that we enjoy today, many of which can be seen from the windows of this great Capitol.

Madam President, the point is this: We have a responsibility not only to protect the legacy of trees and forests that we have inherited, but to plant and nurture the shade and ornamental trees that will being benefits and pleasure to our children, grandchildren, and indeed even our great grandchildren in the distant future. I shudder to contemplate what our beautiful landscape will be like should we fail in our responsibility.

We are all aware of the utter devastation of vast areas of land that is taking place, as I speak, in Africa and the Amazon Valley, where great stands of trees are being cleared away. The resulting moonscapes will be wastelands in a few short years. While I do not suggest that such a thing can or will happen in the United States, I do emphasize that tomorrow's forests and shade and ornamental trees must be planned for, planted, and nurtured by us, right now.

It is indeed refreshing and reassuring to know that there are individuals and organizations, in both the private and public sectors, actively addressing this future need for trees. Most of us are familiar with the work of the National Arborist Association, the International Society of Arboriculture, the American Forestry Association, and the many regional and local groups in the private sector that devote their resources and energies to tree planting and tree care. There are also several agencies within the public sector, notably the U.S. Forest Service and the National Park Service, promoting the future of trees in our Nation.

Madam President, there is a truly unique tree planting program that is deeply rooted, if the Chair will forgive the expression, in my own State of North Carolina.

During the well planned effort to restore the Statue of Liberty in New York Harbor in time for the centennial celebration of the dedication of that great gift from the people of France, several member firms of the National Arborist Association volunteered their services, at no charge, to prune and provide other kinds of care to the beautiful shade and ornamental trees that grace Liberty Island, on which the statue is located. At the same time, these arborists volunteered to perform the same kinds of services on the trees growing on nearby Ellis Island, whose facilities were also in a state of restoration. The first phase of this tree care was carried out in November of 1985.

One of the member firms that donated services was the F.A. Bartlett Tree Expert Co. of Stamford, CT. While making a personal inspection of the ongoing work, Robert A. Bartlett, Jr., president of Bartlett Tree Experts, and president-elect of the National Arborist Association at that time, happened to pick up a handful of seed heads from beneath the beautiful London plane trees beside the Statue of Liberty and put them into his coat pocket. He did the same thing later that day when he inspected the tree work on Ellis Island, placing some seed heads in a different pocket.

When he returned home, Mr. Bartlett placed these seed heads in plastic sandwich bags, thinking that it would be nice to have seven or eight trees of such significant parentage in his yard. With the ground at home frozen by then, he took the seed heads to the Bartlett Tree Research Laboratories and Experimental Grounds near Charlotte, and requested that the new trees be started in the nursery. He didn't realize at the time that each seed head contained several hundred seeds.

On his next visit to Charlotte, one of the horticulturists asked Mr. Bartlett what he planned to do with all those London plane seedlings, of which there were some 6,000 now growing in sterile planting medium. His father, R.A. Bartlett, chairman of the board of the Bartlett Co., suggested that these seedlings would be ideal as memorial trees honoring the Statue of Liberty and Ellis Island.

Because the seed heads and the resulting tree seedlings were technically Federal Government property, Mr. R.A. Bartlett came to Washington to secure permission from the National Park Service, because that agency has jurisdiction over Liberty Island and Ellis Island, to donate the seedlings to appropriate recipients. He was accompanied by one of the directors of the Bartlett Co., Robert N. Hoskins, who is familiar with Washington through his many years as assistant vice president, forestry and special projects, for the Seaboard System Railroad.

Messrs. Bartlett and Hoskins made a brief presentation to Mr. Denis P. Galvin, Deputy Director, National Park Service, who granted permission to distribute the seedlings. I ask unanimous consent, Madam President, that the text of Mr. Galvin's June 2, 1986 letter be printed in the RECORD.

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

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, DC, June 2, 1986.

MR. ROBERT A BARTLETT,
Chairman of the Board, The F.A. Bartlett Tree Expert Co., Stamford, CT.

DEAR MR. BARTLETT: This letter is to express our appreciation to the The F.A. Bartlett Tree Expert Co. for participating, as one of the twenty-three National Arborist Association member firms involved, in the pruning and care of the trees on Ellis Island and Liberty Island in New York Harbor on November 23rd and April 19th. It is important that the trees not be overlooked during the restoration and refurbishing of our national monuments.

We are aware that Robert A. Bartlett, Jr., president of your firm, picked up a handful of seed heads from the ground beneath the London planes (Platanus acerifolia) that grace the Statue of Liberty, as well as from Ellis Island. I understand that these seeds were later planted at the arboretum of The Bartlett Tree Research Laboratories near Charlotte, North Carolina and that a number of the seedlings are thriving.

You have permission from the National Park Service to distribute these London plane (Platanus acerifolia) seedlings, at no charge, to recipients, particularly on state and federal land. I realize that the number of seedlings is limited and that there will not be enough for any sort of mass distribution. It is also my understanding that this distribution will not be used to further the commercial interests of your company.

The planting of these seedlings is an especially appropriate gesture in this, the year of the one-hundredth anniversary of the Statue of Liberty. I understand that your limited supply of seedlings will be ready for

transplanting in September and October of this anniversary year.

Thank you for conceiving this living memorial of the Statue of Liberty centennial.

Sincerely,

DENIS P. GALVIN,
Deputy Director.

Mr. HELMS. Mr. President, Messrs. Bartlett and Hoskins next described their tree donation program to Mr. James B. Grant, executive secretary, National Association of State Departments of Agriculture, who contacted the commissioners of agriculture of all 50 States and the territories to advise them that memorial trees are available. As a result seedlings were donated to officials in all 50 States, the District of Columbia, and the Territory of American Samoa.

Several appropriate public organizations have also received Liberty Centennial Memorial Trees. A representative sampling includes the Hoover Presidential Library Association in Iowa, John Randolph Tucker High School in Virginia, the State Archives Museum in Michigan, the Memphis Zoo and Aquarium in Tennessee, Sturbridge Village Restoration in Massachusetts, Chicago High School for Agricultural Sciences in Illinois, the Patrick Henry Memorial Foundation in Virginia, the J. Sterling Morton Grove in Nebraska, Sequoia National Park in California, several arboretums, and the State house, Governor's mansion, or capital grounds of several States.

In my State of North Carolina, memorial trees have been planted at several court houses, the State Fair Grounds, the University of North Carolina, Carowinds Theme Park, Presbyterian Hospital, the Federal Building in Charlotte, Davidson College, and the R.J. Peeler Future Farmers of America Camp at White Lake.

It is important that the people of France, the original donors of the Statue of Liberty, be remembered for their generosity and friendship. Thirty Liberty Centennial memorial trees were sent to Paris aboard Air France in March and are on hold in a special nursery awaiting planting ceremonies on the Fourth of July, 1987 in United States Square and other locations in Paris. These planting ceremonies will be attended by Jacques Chirac, Prime Minister of France, Robert A. Bartlett, Jr., of the Bartlett Co., and other French and American dignitaries.

We are indebted to Mr. Ralph Ichter, Agricultural Attaché, and Philippe Cardorec, Agricultural Attaché's Office, both of the Embassy of France, in Washington, for their advice, assistance, and cooperation in making and coordinating arrangements in both nations.

I would also recognize the valuable advice, guidance, and assistance provided to this program by two distinguished Virginians now retired from active Government service. Milton Bryain of Arlington served for a great number of years as Liaison Officer, U.S. Department of Agriculture. Ira Whitlock of Alexandria served as Chief, Office of Congressional Liaison, National Park Service for many years. Mr. Whitlock expects to be in Paris for the Fourth of July tree planting ceremonies.

Madam President, I reiterate that this is a truly unique and innovative tree planting project. I take great pride that this program originated on the 300-acre Bartlett Tree Research Laboratories and Experimental Grounds in Mecklenburg County, NC, and that its benefits will be enjoyed and realized over so wide an area of the world for decades, perhaps even a century, to come.

IMPROVING U.S. COMPETITIVENESS

Mr. RIEGLE. Madam President, the Congress is in the midst of a debate over our trade policies and the huge deficits we have with many other countries. Part of this debate has brought out the problems our telecommunication companies are having with other countries' trade barriers. At the same time, we have artificially restricted certain capabilities of our own telecommunications industry in the United States.

Recently an item came to my attention which serves in a small way to illustrate some of our paradoxical economic policies in the United States. In Japan, apparently the Nippon Telephone and Telegraph Co. has installed a capacity in its local phone system that will permit each and every touch tone phone in Toyko to operate as an answering machine. The article that I saw indicated that the Toyko company cannot expand capacity fast enough to keep pace with demand, and that Japanese who were thinking of purchasing normal answering machines were thinking twice about that decision.

In the United States, 4.5 million answering machines were purchased in 1986, and most of them were imported. Our telecommunications trade deficit with Japan was almost $2 billion, which resulted in the loss of tens of thousands of American jobs.

Madam President, I raise this issue because I have found that U.S. telephone companies now have the ability today to install answering systems for local customers using U.S. built equipment. This capacity is presently available but sits idle in many central offices around the country. Our telephone companies are prevented from offering this service as part of the Federal court order which has controlled the telephone system since the divestiture.

It might be wise for us to examine these policies in terms of our world trade problems and from the standpoint of the most efficient usage of our domestic telephone system. We must move in every feasible way to encourage U.S. technological and product development, and help our domestic companies to win back business now being lost to other countries.

DR. PAUL CRAIG ROBERTS

Mr. HATCH. Madam President, one of this country's most significant and innovative economists, Dr. Paul Craig Roberts, recently brought additional honor to himself and to this country in accepting the presentation of the Insignia of the Chevalier of the Legion of Honor from Minister of State Edouard Balladur of the Republic of France. Dr. Roberts and I joined forces in a number of battles as this Nation moved toward the Reagan administration and a new set of economic policies. I fully agree with Mr. Balladur's assessment in his citation for Dr. Robert's Legion of Honor: "You have been the artisan of a renewal in economic science and policy, after half a century of State interventionism * * *. Henceforth, it is no longer possible to consider tax policy as simply a means of filling the state coffers or as an innocent means of transferring revenues."

In a letter, under date of April 8, 1987, President Reagan indicated that Dr. Roberts "* * * has been the intellectual architect of many of the economic policies my administration has implemented over the last six years * * *. In conferring the Legion of Honor upon Paul Craig Roberts, France pays tribute to a man whose supply-side economic philosophy has helped bring about a revolution in American economic thought, a revolution which continues to inspire similar efforts worldwide."

I think we can all benefit from the full text of Minister Balladur's speech and President Reagan's letter. For that reason, Mr. President, I ask that these documents be printed in their entirety.

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

SPEECH GIVEN BY THE MINISTER OF STATE EDOUARD BALLADUR ON THE OCCASION OF THE PRESENTATION OF THE INSIGNIA OF CHEVALIER OF THE LEGION OF HONOR TO PROFESSOR PAUL CRAIG ROBERTS ON APRIL 8, 1987

Sir, all those who are gathered here today and who share in your personal and professional life are pleased to be here and to participate in the presentation of the Insignia of the Chevalier of the Legion of Honor.

On occasions such as this, custom dictates that we review the accomplishments of the person we honor. Permit me to follow in this tradition. Throughout your life, you have successfully combined the functions of intellectual contemplation and of advice on direct action.

For a man of thought, there is no greater satisfaction than to be able to verify, concretely, the value of his ideas.

You currently hold the William E. Simon, Chair In Political Economy at the Center for Strategic and International Studies at Georgetown University. You are also a director of a well-known investment company. Your past accomplishments are equally prestigious, in research as well as in the administration where you played a key role in the Treasury Department. You were economic counselor to JACK KEMP, the chief economist to the House Budget Committee, research fellow at the Hoover Institution, and a writer for the Wall Street Journal.

You are a columnist for Business Week, and your articles in the press are awaited with baited breath. Your book "The Supply Side Revolution" speaks with authority.

But today I would like to focus on two specific aspects of your activities.

You have been the artisan of a renewal in economic science and policy, after half a century of State interventionism.

You have contributed to exchanges between practitioners and theoreticians on both sides of the Atlantic.

It is clear from your work that this renewal of economic thought requried first a return to basic tenets and then a reconstruction based upon them. The foundation of this thought is the explanation of the role of relative prices in the choices of individuals and businesses.

The rebuilding of the global economy consists of combining all decisions of supply and demand from all sources and is determined by the working of a multitude of markets. The new application of this classic approach to the study of fiscal policy, saving, and growth was named supply-side theory.

For example, let us consider, as your work invites us to do, the politics of taxation. The vision is striking; it shows that marginal tax rates are the key factors in determining the choice between leisure and work, and between saving and consumption. In the same way, tax rates on profits influence the investment and savings choices of businesses. From this follows:

Your interpretation of "stagflation," a combination of stagnation and inflation that has been experienced by western economies;

Your recommendations to lower marginal tax rates in order to permit growth in supply of goods and services; and

Finally to achieve full economic growth.

After decades in which the State was supposed to regulate growth by slowing or speeding up spending, by increasing global demand without being concerned with the effect of taxes on supply, what a revolutionary change in beliefs! It is true that policy has not always followed accordingly.

Henceforth, it is no longer possible to consider tax policy as simply a means of filling the State coffers or as an innocent means of transferring revenues.

From now on, a tax policy that is aware of its impact on the incentives of individuals and businesses plays a central role in the economic policy of a country and gives it its direction. Sound fiscal policy is one of the foundations of healthy and lasting growth. Its principle can be summed up quite simply: reduce tax rates that discourage work and savings and adversely alter investment choices, while following, in other areas, fiscal policies which restore the equilibrium of public finance. Today, this orientation of fiscal policy inspires reflection and galvanizes action in several countries. Great Britain, West Germany, Australia, India, and Israel have understood the necessity of reducing the tax burden, thereby joining your country, the first to commit itself to this path.

This new perspective has enormous consequences. But this renewal could not have come about simply by the force of thought and reason.

In order to change thinking to this extent, it was necessary to have the courage to think differently. And, moreover, the courage to commit oneself publicly and to gain the support of a small number of economists in the battle against entrenched ideas.

Everyone has been affected by your courage, human warmth and force of persuasion.

Now I would like to evoke the second aspect of your activities. All of your considerations have found reasonance across the Atlantic in our country. I said earlier that your analysis was grounded in classic economic theory. In France, Jacques Rueff, along with a very few others, pursued a similar path. In numerous works he referred to Say's law: "supply creates its own demand," which he generalized to take into account the money supply. In famous and courteous discussions with Keynes, before the war, he supported the approach of classic economists: the central role of the pricing mechanism.

Production can be hindered by tax policy, as well as by regulation. An anecdote comes to mind: In his "letter to interventionists," Jacques Rueff pointed out that "in 1936 there was a government that proposed and a parliament that voted a law that forbade not only the creation of new shoe factories, but also the opening of simple cobblers' shops * * *"

This classic tradition lives on in France. This is why your efforts naturally found resonance with us, first in theory then in practice. From analogous concerns, the government of Jacques Chirac has shown its determination to recognize the link between lower taxes and deficit reduction. Friendly ties have been created between French and American economists, and you yourself have contributed mightily to these exchanges by sharing your experience and thought.

But on the subject of taxes, I would also like to go back for a moment to an ethical problem. Why is this policy, which seeks growth also a just policy? Why are justice and efficiency in a society so intimately linked, and why does this tax orientation serve both at one and the same time?

What everyone hopes for in his life, and activity, is to gain recognition for his work and for his contributions. Everything that does not take into account the effort and the value of individual contributions is perceived as unjust. Popular wisdom and the morality of great civilizations speak with the same voice on this subject.

Also, from the time we are children, we are taught the fundamentals of reward for effort and the exercise of judgment. The same must be true for society and its enterprises.

This is why tax policies that restore just compensation for effort and performance reinforce the values that are the force of our civilization. This kind of policy is inevitably seen as just and effective and unites an entire nation for progress.

Sir, I am particularly happy to be the one chosen to bear witness to your contributions to economic thought and to your impact on economic policy. However, this cannot be transferred in its original form to the French system. We are an old country, steeped in a love for freedom, but also a country which is organized and grouped around the State. This is why we must seek our own way, after 50 years of interventionism, toward a society which is more free, efficient and just.

Nevertheless, I have found in your bearing and thought, strong arguments to confirm my convictions, the convictions that have lead me to put into practice a new economic and financial policy in France. This I believe is evidence of how very happy I am to be your sponsor in our national order.

Paul Craig Roberts, in the name of the President of the Republic, and by virtue of the powers vested in me, I declare you Chevalier of the Legion of Honor.

THE WHITE HOUSE,
Washington, DC, April 8, 1987.

I am pleased to send warm greetings to everyone gathered at the residence of His Excellency and Mrs. Emmanuel de Margerie as Finance Minister Balladur bestows France's highest award, the Legion of Honor, on Dr. Paul Craig Roberts for his contribution to the "revival of economic science and policy."

Craig has been the intellectual architect of many of the economic policies my Administration has implemented over the last six years. As this award recognizes, he has demonstrated throughout his career a keen understanding of the science of economics and its practical implications for public policy. He has proven himself both a forceful academic advocate and an effective public servant. His work, both as my Assistant Secretary of the Treasury for Economic Policy and at Georgetown University's Center for Strategic and International Studies, has consistently emphasized government's proper role in setting economic policy—one which ensures that the people have the maximum freedom to make their own economic choices. His ideas have been tested in the crucible of experience, and they have contributed mightily to America's economic resurgence in this decade.

In conferring the Legion of Honor upon Paul Craig Roberts, France pays tribute to a man whose supply-side economic philosophy has helped bring about a revolution in American economic thought, a revolution which continues to inspire similar efforts worldwide. I congratulate Craig on receiving this high honor and heartily commend our counterparts in the French Government for recognizing his singular contributions in the field of economic science and policy.

God bless you all.

RONALD REAGAN.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:20 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1085) to amend title 38, United States Code, to make permanent the new GI bill educational assistance programs established by chapter 30 of such title, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2360. A bill to provide for a temporary increase in the public debt limit.

The message further announced that pursuant to section 204 of Public Law 98-459, the Speaker appoints as a member of the Federal Council on the Aging on the part of the House: Mr. Virgil S. Boucher of Peoria, Illinois, from the private sector.

At 6:23 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1157) to provide for an acreage diversion program applicable to producers of the crop of winter wheat harvested in 1987, and otherwise to extend assistance to farmers adversely affected by natural disasters in 1986.

The message also announced that the House has passed the following bills, without amendment:

S. 942. An act to amend title 5, United States Code, to extend the pay retention provisions of such title to certain prevailing rate employees in the Tucson wage area whose basic pay would otherwise be subject to reduction pursuant to a wage survey; and

S. 1177. An act to amend title 5, United States Code, to provide for procedures for the investment and payment of interest of funds in the Thrufe Savings Fund when restrictions on such investments and payments are caused by the statutory public debt limit.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2360. An act to provide for a temporary increase in the public debt limit.

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. HOLLINGS (for himself, Mr. PELL, Mr. INOUYE, Mr. STEVENS, Mr. BENTSEN, Mr. KERRY, Mr. ADAMS, Mr. BREAUX, Mr. WEICKER, Mr. MITCHELL, Mr. STENNIS, Mr. THURMOND, Mr. BIDEN, Mr. GLENN, Ms. MIKULSKI, Mr. ROTH, Mr. SARBANES, Mr. KASTEN, Mr. MATSUNAGA, and Mr. MURKOWSKI):

S. 1196. A bill to provide for the enhanced understanding and wise use of ocean, coastal, and Great Lakes resources by strengthening the National Sea Grant College and by initiating a Strategic Coastal Research Program, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources, jointly, pursuant to the order of May 12, 1987.

By Mr. DECONCINI:

S. 1197. A bill to amend the effective date of the provision contained in the Tax Reform Act of 1986 dealing with allocation of indebtedness as payment on installment obligations; to the Committee on Finance.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 1198. A bill to authorize a certificate of documentation for the vessel F/V *Creole;* to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG:

S. 1199. A bill to prevent suicide by youth; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself and Mr. PELL):

S.J. Res. 128. Joint resolution prohibiting the sale to Honduras of certain defense articles and related defense services; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself and Mr. DOLE):

S. Res. 215. Resolution to direct the Senate Legal Counsel to represent the President of the Senate and the President pro tempore in the case of *McWherter* v. *Bush, et al.;* considered and agreed to.

By Mr. METZENBAUM (for himself, Mr. HEINZ, and Mr. SPECTER):

S. Con. Res. 58. Concurrent resolution to express the support of Congress for private sector efforts aimed at alleviating losses suffered by retirees and employees as the result of pension plan terminations; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself, Mr. PELL, Mr. INOUYE, Mr. STEVENS, Mr. BENTSEN, Mr. KERRY, Mr. ADAMS, Mr. BREAUX, Mr. WEICKER, Mr. MITCHELL, Mr. STENNIS, Mr. THURMOND, Mr. BIDEN, Mr. GLENN, Ms. MIKULSKI, Mr. ROTH, Mr. SARBANES, Mr. KASTEN, Mr. MATSUNAGA, and Mr. MURKOWSKI):

S. 1196. A bill to provide for the enhanced understanding and wise use of ocean, coastal, and Great Lakes resources by strengthening the National Sea Grant College Program and by initiating a Strategic Coastal Research Program, and for other purposes; pursuant to the order of May 12, 1987, referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources.

MARINE SCIENCE, TECHNOLOGY, AND RESOURCE DEVELOPMENT ACT

● Mr. HOLLINGS. Mr. President, I rise today to join with Senator PELL in introducing a bill to reauthorize the National Sea Grant College Program.

Two decades ago, Congress created Sea Grant to foster the understanding, use, and conservation of ocean and coastal resources through university-based research, education, and advisory services. Today, that program stands as a model for partnership among university, government and private sectors dealing with critical resource issues. Last month, I joined with Senator BENTSEN and several of our colleagues in introducing a bill to establish a Space Grant College Program. Recognizing the effectiveness of the Sea Grant approach, the new space program is closely patterned after its marine predecessor.

As Sea Grant enters its third decade, it seems appropriate to reassess the condition and direction of the program which we created. The Sea Grant network has grown to include 22 Sea Grant colleges and 7 institutional programs. This network draws upon the academic facilities and personnel of more than 300 universities and affiliated institutions in 39 States. Despite repeated efforts by the current administration to eliminate funding and cripple the program, I am happy to announce today that Sea Grant is alive and well.

Sea Grant contributes to the competitiveness of our marine economy, to scientific understanding of our ocean and coastal resources, and to transfer of technology among marine users. Not only has Sea Grant led to fuller and more efficient use of marine resources, a 1981 study found that certain parts of the program have generated almost $230 million in economic benefits—not a bad return for our investment. Sea Grant success stories are numerous and illustrate its diversity.

In 1970, 2.6 million pounds of soft-shell crabs valued at $1.1 million were harvested along the eastern Atlantic and Gulf coasts. In 1984, independent producers marketed 8.1 million pounds of soft-shell crabs, earning $16 million in gross income and employing 4,000 workers. The demand for soft-shell

crabs still exceeds the supply. This successful expansion into domestic and foreign markets is due largely to Sea Grant research and advisory programs.

In Louisiana, Sea Grant research helped transform the wild crawfish harvest into a $70 million aquaculture industry. Current research is committed to converting crawfish waste into commercially valuable products. Similar efforts are underway in my own State of South Carolina.

Also in South Carolina, Sea Grant researchers have been involved in a comprehensive study to examine the State's coastal impoundments. These impoundments are remnants of a once-flourishing rice culture that began about 300 years ago around Charleston. In recent years, interest in these abandoned rice fields has been renewed for use as game preserves, waterfowl habitat, and acquaculture sites. The environmental consequences of rediking areas for private use has sparked controversy. The South Carolina Sea Grant Consortium's study provides the first factual data on the ecology and management of these areas. This information will assist policymakers in permit decisions and will improve the management of currently impounded sites.

In recent years, the National Marine Fisheries Service has turned to Sea Grant for help in reducing intense resistance by shrimp fishermen to the use of turtle excluder devices. Sea Grant extension agents are working with shrimpers to develop and certify safer and less expensive excluder devices, as well as providing information on excluder construction and efficient use.

This legislation recognizes that the Sea Grant College Program is a national effort which is clearly worthy of our support. It would reauthorize the program for 5 years. Authorizations for the base program maintaining the Sea Grant network are set at $45 million for fiscal year 1988 and increase annually to allow for inflation, to $54 million for fiscal year 1992.

The Sea Grant network represents a strong national research capability for addressing questions of emerging national importance. To direct and challenge this capability, the bill initiates a Strategic Research Program which will identify and focus on national research priorities. Sea Grant should bring a unique expertise to bear in areas such as estuarine processes, marine biotechnology, fisheries oceanography, and ocean technology. I look forward to discussing Sea Grant's method for prioritizing national research needs. Funding for the initiative is authorized at $5 million in fiscal year 1988 and would be permitted to increase to $20 million by fiscal year 1992. The bill also strengthens the International Sea Grant Program and broadens the Fellowship Program to include postdoctoral researchers.

Reauthorizing and strengthening the National Sea Grant College Program is essential for maintaining national competitiveness in ocean research. The Sea Grant Program ensures conservation and efficient use of our national resources and better education and training or our Nation in science and engineering. In providing cost-effective cooperation among Government, academic, and private sectors as a fundamental base for technology transfer and development, Sea Grant is truly a program for these times.

Mr. President, I ask unanimous consent that the text of the bill appear in the RECORD following these remarks.

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

S.1196

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That his Act may be cited as the "Marine Science, Technology, and Resource Development Act of 1987".

DECLARATION OF POLICY

SEC. 2. (a) Section 202(a) of the Sea Grant College Program Act (33 U.S.C. 1121(a)) is amended—

(1) by (A) redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively, and (B) inserting immediately before paragraph (4), as so redesignated, the following:

"(2) The national interest requires a national ocean policy to—

"(A) provide a sound basis for the enhancement and wise use of ocean, coastal, and Great Lakes resources and environment;

"(B) promote public stewardship and encourage wise economic development of the ocean and its margins, the Great Lakes, and the Exclusive Economic Zone;

"(C) understand global environmental processes; and

"(D) promote cooperative domestic and international solutions to ocean, coastal, and Great Lakes resource issues.

"(3) Investment in a strong program of research, education, technology transfer, and public service is essential for effectuating this policy.";

(2) in paragraph (1) and paragraph (4), as so redesignated, by striking "ocean and coastal" and inserting in lieu thereof "ocean, coastal, and Great Lakes"; and

(3) in paragraph (4), as so redesignated, by striking "such" and inserting in lieu thereof "marine".

(b) Section 202(b) and (c) of the Sea Grant College Program Act (33 U.S.C. 1121(b) and (c)) is amended by striking "ocean and coastal" and inserting in lieu thereof "ocean, coastal, and Great Lakes".

DEFINITIONS

SEC. 3. Section 203 of the Sea Grant College Program Act (33 U.S.C. 1122) is amended—

(1) by redesignating paragraphs (4) through (14) as paragraphs (5) through (15), respectively;

(2) by inserting immediately after paragraph (3) the following:

"(4) The term 'directors of sea grant colleges' means the persons designated by their universities or institutions to direct sea grant colleges, programs, or regional consortia.";

(3) in paragraph (7), as so redesignated, by striking "the waters of any zone over which the United States asserts exclusive fishery management authority;" and inserting in lieu thereof "the exclusive economic zone established by proclamation numbered 5030, dated March 10, 1983;"; and

(4) by amending paragraphs (8) and (12), as so redesignated, by striking "ocean and coastal" and inserting in lieu thereof "ocean, coastal, and Great Lakes".

NATIONAL SEA GRANT COLLEGE PROGRAM

SEC. 4. Section 204(c)(5) and (d)(3) of the Sea Grant College Program Act (33 U.S.C. 1123(c)(5) and (d)(3)) is amended by striking "ocean and coastal" wherever it appears and inserting in lieu thereof "ocean, coastal, and Great Lakes".

PRIOR APPROVAL REQUIREMENTS

SEC. 5. Section 205(d)(1) of the Sea Grant College Program Act (33 U.S.C. 1124(d)(1)) is amended by adding at the end the following: "Terms, conditions, and requirements imposed by the Secretary under this paragraph shall minimize Federal prior approval requirements.".

STRATEGIC MARINE RESEARCH PROGRAM

SEC. 6. Section 206 of the Sea Grant College Program Act (33 U.S.C. 1125) is amended to read as follows:

"SEC. 206. STRATEGIC MARINE RESEARCH PROGRAM.

"(a) IN GENERAL.—Within one year after the date of enactment of the Marine Science, Technology, and Resource Development Act of 1987, and every three years after such date, the Administrator shall develop and publish the Sea Grant Strategic Research Plan. The plan shall identify and describe a limited number of priority areas for strategic marine research in fields associated with ocean, coastal, and Great Lakes resources. In addition, the plan shall indicate goals and timetables for the research described in such plan. Upon publication of the plan, the Administrator shall submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives. The Secretary may not make a grant under subsection (c) of this section regarding priority areas identified and described in the plan until after 45 days from the date of receipt of the plan by such Committees.

"(b) CRITERIA FOR AREAS TO BE INCLUDED IN PLAN.—The priority areas in the Administrator's plan submitted under subsection (a) of this section shall concentrate on—

"(1) the critical resource and environmental areas where their national or global scope, their fundamental nature, their long-range aspects, the scale of the needed research effort, or the need for the broadest possible university involvement preclude adequate funding under other sections of this Act; and

"(2) the areas where the strength and capabilities of the sea grant colleges, programs, and regional consortia in mobilizing talent for sustained programmatic research and technology transfer make them particularly qualified to manage the strategic marine research called for in this section.

"(c) PROCEDURES AND ELIGIBILITY.—(1) The Secretary may make grants of up to 100 percent to carry out the strategic marine research program described in this section. The grants shall be subject to the guidelines

and review procedures, including peer review, used by the national sea grant office, and sea grant colleges, programs, and regional consortia.

"(2) A grant may be made under this section to—

"(A) sea grant colleges, programs, and regional consortia; and

"(B) any qualified individual at a degree granting institution of post-secondary education.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not to exceed $5,000,000 in fiscal year 1988, $9,000,000 in fiscal year 1989, $13,000,000 in fiscal year 1990, $17,000,000 in fiscal year 1991, and $20,000,000 in fiscal year 1992. Such sums shall remain available until expended. The amounts obligated to be expended under this section shall not, in any fiscal year, exceed 50 percent of amounts appropriated for such year pursuant to section 212.".

DESIGNATION OF SEA GRANT COLLEGES AND REGIONAL CONSORTIA

SEC. 7. Section 207(a)(2)(A), (3)(A) and (3)(B) of the Sea Grant College Program Act (33 U.S.C. 1126(a)(2)(A), (3)(A) and (3)(B)) is amended by striking "ocean and coastal resources" and inserting in lieu thereof "ocean, coastal, and Great Lakes resources".

FELLOWSHIPS

SEC. 8. Section 208(a) of the Sea Grant College Program Act (33 U.S.C. 1126(a)) is amended to read as follows:

"(a) IN GENERAL.—The Secretary shall support sea grant academic, Congressional, and Federal fellowships to provide educational and training assistance to qualified individuals at the undergraduate and graduate levels of education, as well as support postdoctoral level fellowships to accelerate research in critical subject areas. Such fellowships shall be related to ocean, coastal, and Great Lakes resources and be awarded pursuant to guidelines established by the Secretary. Congressional and Federal sea grant fellowships may only be awarded by the national sea grant program. Academic and postdoctoral fellowships may be awarded by sea grant colleges, regional consortia, institutions of higher education, and professionals associations and institutes.".

SEA GRANT REVIEW PANEL

SEC. 9. Section 209(b)(1) of the Sea Grant College Program Act (33 U.S.C. 1128(b)(1)) is amended by inserting immediately before the semi-colon the following: ", and section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a)".

INTERAGENCY COOPERATION

SEC. 10. Section 210 of the Sea Grant College Program Act (33 U.S.C. 1129) is amended by striking "ocean and coastal resources" and inserting in lieu thereof "ocean, coastal, and Great Lakes resources".

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. Section 212 of the Sea Grant College Program Act (33 U.S.C. 1131) is amended by inserting immediately after paragraph (4) the following:

"(5) not to exceed $46,000,000 for fiscal year 1988, not to exceed $48,000,000 for fiscal year 1989, not to exceed $50,000,000 for fiscal year 1990, not to exceed $52,000,000 for fiscal year 1991, and not to exceed $54,000,000 for fiscal year 1992.".

SEA GRANT INTERNATIONAL PROGRAM

SEC. 12. Section 3(a) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(a)) is amended to read as follows:

"(a) IN GENERAL.—The Secretary may enter into contracts and make grants under this section to—

"(1) enhance cooperative international research and educational activities on important ocean, coastal, and Great Lakes resources;

"(2) promote shared marine activities with universities in countries with which the United States has sustained mutual interests in ocean, coastal, and Great Lakes resources;

"(3) encourage technology transfer that enhances wise use of ocean, coastal, and Great Lakes resources, in the United States and in other countries;

"(4) promote the exchange among the United States and foreign nations of information and data with respect to the assessment, development, utilization, and conservation of such resources; or

"(5) use the national sea grant college program as a resource in other Federal civilian agency international initiatives where research, education, technology transfer and public service programs concerning the enhancement and wise use of ocean, coastal, and Great Lakes resources for fundamentally related to the purposes of such initiatives.".

AUTHORIZATION OF APPROPRIATIONS FOR SEA GRANT INTERNATIONAL PROGRAM

SEC. 13. Section 3(c) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(c)) is amended—

(1) by inserting after paragraph (4) the following:

"(5) For each of fiscal years 1988, 1989, 1990, 1991, and 1992, not to exceed $1,000,000. Additional funding may be provided through other Federal program elements with a marine science or technology transfer component, or both.".●

● Mr. PELL. Mr. President, as the author of the legislation that established the National Sea Grant College Program in 1966, I am delighted to join today in introducing legislation to continue and strengthen that program over the next 5 years.

The National Sea Grant College Program ranks as one of the major successes of our Government in increasing knowledge, productive use, and wise management of this Nation's marine and Great Lakes resources.

Before enactment of the National Sea Grant College Program Act some 21 years ago, the United States had a strong, but relatively narrow basic research capability in the ocean sciences. Beyond military applications, however, there was little capability or effort in applying the marine sciences to the practical needs of marine-related industries—fisheries, off-shore minerals, aquaculture, marine transportation, recreation. There was no linkage between our marine research base and those people that needed and could use the results of research. There was little focus on the broad need for marine education, and little effort to bring the fragmented ocean sciences and marine engineering into a comprehensive approach to ocean resource problems and opportunities.

The Sea Grant College Program has changed all of that. The program, providing Federal matching funds on a two to one basis, has sparked the development of a national network of 30 Sea Grant Colleges. Patterned after the Land Grant Colleges that transformed American agriculture, the Sea Grant Colleges focus interdisciplinary capabilities on ocean and Great Lakes resources through applied research, education and extension services.

And this network has been extraordinarily productive. One study estimates that Sea Grant sponsored projects are producing an annual benefit of reduced costs, expanded production and new products totaling $230 million a year, compared with an annual Federal expenditure in recent years of $40 million.

I am proud to say that the University of Rhode Island in my home State has been an outstanding example of the success of the Sea Grant Program. Indeed, the University of Rhode Island with its Graduate School of Oceanography was in many ways the birthplace of the Sea Grant Program. The original legislation was shaped at a national conference hosted by URI in Newport in 1965, and in the same year the URI campus was the site of the first congressional hearing on the new proposal. Subsequently, URI was among the small group of institutions that first qualified for grants under the program, and was among the first four institutions later certified as Sea Grant Colleges based on the excellence of their performance in the program.

Despite its success, the Sea Grant College Program needs strengthening if it is to meet the continuing challenges of the coming years. The legislation we are introducing today is designed to meet that challenge in several ways:

The legislation will increase the authorized funding for Sea Grant modestly to $46 million in fiscal year 1988, and stepping up in stages to $54 million in 1992. Despite rising costs, Sea Grant has survived on essentially level funding for several years. Inflation alone has cut the value of Federal Sea Grant funding by 20 percent in the past 5 years. This erosion of funding is beginning to take a serious toll in the number of projects underway and the number of scientists and engineers working on marine resource problems.

This legislation also will create a new Strategic Marine Research Program to focus limited funding on areas determined to have a high national priority. In recognition of their national scope, the Federal Government may fund up to 100 percent of the costs of these projects. The initial $5 million authorization for this program would increase in steps to $20 million in fiscal year 1992.

In addition, the legislation would continue an authorization of appro-

priations for the Sea Grant International Program.

Mr. President, I wish to commend the distinguished chairman of the Senate Commerce Committee, Senator HOLLINGS, for his work in the development of this legislation and thank him for his consultation with me as the author of the original Sea Grant College legislation. Senator HOLLINGS for years has been among the strongest and most effective supporters of the Sea Grant College Program, and I look forward to working with him to assure final enactment of this meritorious legislation.●

● Mr. WEICKER. Mr. President, I rise today to join my colleagues in introducing the Marine Science, Technology, and Resource Development Act of 1987. This act reauthorizes the National Sea Grant College Program, which has provided expertise to this Nation for more than 20 years by addressing critical marine resource needs. Through a unique network of Sea Grant colleges and institutions nationwide the program has demonstrated that it is a productive and innovative mechanism to promote marine research, education, technology transfer, and public service. Its key components—an emphasis on multidisciplinary research and university/government/industry cooperation—have made it instrumental in contributing to the competitiveness of the nation's marine economy. The highly successful Sea Grant Program is administered by the National Oceanic and Atmospheric Administration.

This legislation reauthorizes the National Sea Grant Program through 1992, giving it the opportunity for stable, long-term planning and growth. It also broadens and updates the 1976 revision of the act to include research and economic development opportunities that will continue to contribute to a sound national oceans policy.

A new provision in this bill sets up a Strategic Marine Research Program. Within this program the Administrator is directed to identify areas of marine research that deserve priority consideration. The Secretary of Commerce is then directed to make grants available for such research. The priority areas are to be updated every 3 years, giving scientists the opportunity to work on long-range programs and encouraging broad-based, multi-institutional involvement.

The legislation codifies the existing program of academic, Congressional, and Federal Sea Grant Fellowships and provides for a new postdoctoral fellowship to accelerate research in critical areas. Industry, State and Federal Government are filled with graduates who learned their skills in Sea Grant programs. The above provisions ensures that we will continue to produce knowledgeable individuals in marine science, technology, and policy.

Finally, this legislation reauthorizes Sea Grant's International Program, which would support technology transfer and cooperative research with foreign nations.

Mr. President, over the years Sea Grant has effectively worked to increase the understanding, assessment, development, and conservation of our marine resources by providing a strong educational base, responsive research and training programs, and timely dissemination of scientific and management techniques. As such it has proven a cost-effective way to contribute to human health issues, environmental quality, and the enhancement of commerce.

The commitment on the part of the Federal Government in its continued partnership with State and local government, industry, and universities is essential to the success of the National Sea Grant Program. The legislation we are introducing today reaffirms this commitment by strengthening the 1966 act to continue the appropriate development and conservation of the oceans, whether it be in estuarine pollution, coastal zone management, fisheries resources, or global environmental processes—or any other relevant research areas.

Senator PELL introduced the National Sea Grant College and Program Act in 1965, establishing the initial program. Athelstan Spilhaus, the internationally known scientist who first introduced the concept of a Sea Grant college to the American public in 1963, spoke at that time of the need to take advantage of the opportunities and challenges the oceans offer us:

> • • • to do this we must have sea-grant universities and colleges that focus with commitment on the sea—that seek to impinge all our intellectual disciplines on the mastery, exploitation, and preservation of the sea. Just as the scholars in the land-grant college developed a passion for the land we must seek through a welding together of science, art, literature, engineering, medicine, law, public administration, and politics to develop a public which will not only homestead our new spaces in the sea but colonize and civilize them through an integrated interdisciplinary education in the sea-grant universities.

With the introduction of this legislation today we, as a nation, reaffirm our commitment to benefit and preserve our marine resources.●

● Mr. ROTH. Mr. President, I rise today to join my colleague Senator HOLLINGS in introducing legislation that would reauthorize the Sea Grant Program through fiscal year 1992, S. 1196. It is very important that we reauthorize this productive, and effective program. Reauthorization of the Sea Grant Program would continue activities that address national priorities for marine resources and the marine environment.

I have always been a strong supporter of the Sea Grant Program. It has managed to effectively combine research, education, technology transfer, and public service into a program which enhances and promotes the wise use of our Nation's estuaries and coastal regions. It is a good example of educational institutions, government, and the private sector working together to address coastal and marine issues for the public good. It is well worth the investment of Federal dollars.

The University of Delaware was designated as a Sea Grant College Program in 1976. I am proud of Delaware's program and accomplishments. It's current emphasis in marine biotechnology, estuarine and coastal environmental assessments, geological and coastal dynamics, and marine program outreach has made major contributions to fuller utilization and greater efficiency in marine or coastal resource based industries. I would like to list some of the recent accomplishments of Delaware's Sea Grant Program.

Fouling—the encrusting of barnacles and other foreign matter on marine vessels and other objects—is an ever present problem. In the marine environment biofouling has major cost problems. Laboratory experiments have resulted in localizing and identifying naturally occurring antifouling components in such marine organisms as corals and sponges. By understanding how natural chemical defenses deter fouling, University of Delaware scientists hope to gain insight into new and better methods of preventing biofouling on marine vessels and other artificial substrates.

Delaware scientists have developed methods to extract chitin, the cellulose like structure found in the shell of crabs, shrimp, and other marine animals, and considered a waste produced by seafood processors. Extracted chitin has produced surgical sutures, high value food additives, and specialty chemicals.

Continued study of the Delaware estuary, a major source of commercial and recreational growth for the mid-Atlantic region, involve an assessment of its health and system functions. The results are used to make decisions on future development on and around Delaware Bay.

The marine advisory service activities encompass a wide range of projects designed to educate and enhance the lives of those who enjoy Delaware's beaches. Among others the marine reports advise boaters and provide updated weather reports, while the seafood retailers and the charter/headboat industry have found the business workshops to be of great value.

Finally, Mr. President, since its designation as a Sea Grant College Program in 1976, the University of Delaware has had, and continues to have a

strong commitment to the education of students pursuing marine studies. Many of these students have gone on to successful marine realted careers in industry, State, and Federal Government, and academia.●

By Mr. DECONCINI:

S. 1197. A bill to amend the effective date of the provision contained in the Tax Reform Act of 1986 dealing with allocation of indebtedness as payment on installment obligations; to the Committee on Finance.

ALLOCATION OF INDEBTEDNESS

● Mr. DECONCINI. Mr. President, today I am introducing legislation which is designed to correct language in the conference report of the Tax Reform Act passed last Congress. My proposal would return the bill to the language as passed by the Senate originally. The change which has proven so damaging to business across this country was made with no apparent discussion by the conferees and appears to have been a last minute switch.

The conference report language is threatening to have a serious and adverse effect of many taxpayers, both in my State and throughout the country, who use the installment sales method. The language accelerated the date on which the new installment sales provision applies to fiscal year taxpayers. As a result, the provision will effect these taxpayers in a significantly different way than on calendar year taxpayers in an identical situation. Senator PACKWOOD acknowledged in a colloquy with me during the Senate debate on the tax reform conference report that there was no explicit decision by the conferees to treat taxpayers reporting installment sales differently based solely on their fiscal year.

The bill which passed the Senate had an effective date of taxable years beginning after December 31, 1986. However, the conference report had an effective date of taxable years ending after December 31, 1986. This seemingly small change has had disastrous effects.

My bill seeks to reinstate the original language of the Senate provision, making the effective date taxable years beginning after December 31, 1986.

From the standpoint of equity and legislative procedure, the language change should not have been included in the conference report. This legislation is intended to remedy that situation.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1197

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

SECTION 1. ALLOCATION OF INDEBTEDNESS AS PAYMENT ON INSTALLMENT OBLIGATIONS APPLICABLE TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1986.

(a) IN GENERAL.—Paragraph (1) of section 811(c) of the Tax Reform Act of 1986 is amended by striking out "ending after December 31, 1986" and inserting in lieu therof "beginning after December 31, 1986".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if included in the Tax Reform Act of 1986.●

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 1198. A bill to authorize a certificate of documentation for the vessel *F/V Creole*; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "F/V CREOLE"

● Mr. STEVENS. Mr. President, title 46 of the United States Code requires that vessels engaged in the domestic coastwise trade be built in the United States. The law also eliminates the coastwise privileges for U.S.-built vessels which are sold to foreign citizens. If a U.S. citizen purchases such a vessel, a legislative waiver of the documentation and coastwise provisions in title 46 is required.

The legislation I am introducing today would provide such a waiver to an Alaskan constituent. Richard Billings owns and operates a 78-foot motoryacht named the *F/V Creole* (official number 229565). The vessel was built in Seattle, WA, but was subsequently sold to a citizen of West Germany. This creates a defect in the chain of title for purposes of documentation.

Mr. Billings purchased the vessel in 1979, and has been operating a six-passenger charter operation continuously under a time-share arrangement. The Coast Guard informed him in April after 7 years of operation that the time-share arrangement is in violation of title 46. He has no alternative other than a legislative waiver, and will miss a significant portion of the charter season this summer unless the waiver is acted or promptly.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Notwithstanding sections 12105, 1206, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessel: *Creole*, United States offical number *229565*.●

By Mr. LAUTENBERG:

S. 1199. A bill to prevent suicide by youth; to the Committee on Labor and Human Resources.

YOUTH SUICIDE PREVENTION ACT

● Mr. LAUTENBERG. Mr. President, I rise today to introduce a bill dealing with the tragic issue of youth suicide.

In my State of New Jersey, the full impact of the problem of youth suicide was brought home to us recently. We were shocked and troubled by the tragic deaths of four young people in Bergenfield, and the deaths and attempted suicides that have followed.

Youth suicide is at alarmingly high levels in this country. About 11 percent of high school seniors—nearly 2 million—have made at least one attempt at suicide. Between 5,000 and 6,000 young people succeed in killing themselves each year.

Experts think that many deaths that are called accidents are really suicides. For people between the ages of 15 and 24, suicide is the third highest cause of death after accidents and homicides. And the danger is growing. The rate of youth suicides is now 300 percent higher than it was in 1950.

This is an epidemic. But it is treated like a dirty secret that no one wants to mention. When a suicide, or a number of suicides, occur in a community, there is concern. There is bewilderment. There are many unanswered questions. And there is guilt.

Experts are paraded before the public, on television, in the newspapers. They point to warning signs. They call for more hotlines, more counseling, more community resources.

But really no one knows what leads one young person to give up on life and another to overcome adversity, to say "yes" to life. A thoughtful witness at a congressional hearing a year ago captured the question. He said it's a complex problem. It is deeply involved in our society. And it is not something we can cure with a drug or an innoculation, which will make it go away like polio or measles.

In our country we have the healthiest, most educated, most involved, and most intelligent young people. At the same time we have young people who seem bent on self-destruction—with drugs—with alcohol—with suicide.

What are we to think? Are the high school years really a walk through the valley of the shadow of death?

For most, they are not. So says a study released earlier this year. Interviewers talked to children between the ages of 8 and 17 about the things that concern them. The poll found that most children are fundamentally content with their personal lives, their families, and their schools.

But these days are not Pollyannas. Most of them say that among their peers there is "at least some" smoking, drinking, sex, crime, drug abuse, and marijuana use. And they think that adults should set more limits for them in order to improve this situation. More enforcement of rules and discipline would help, the students say. More education about the dangers of drug and alcohol abuse would also help.

From this overview, I draw two broad conclusions about the suicide problem. First, we obviously need some near-term programs, some first aid. Teachers, parents, the community needs to learn what the danger signs are in a troubled child. Counseling and therapy must be available. No child should feel so alone in the world that his only choice is to leave it. And those who are left behind after a suicide need help, too.

Second, for the longer term, we need more and better research. We just do not know enough about what works with these kids and what does not. And the findings must be widely disseminated. Everyone who has a significant contact with children should have the best information.

In short, communities need to plan. They need to take stock of their resources, decide what they want to accomplish, and decide what they need to do to achieve their goals.

In many areas, schools and local governments are already trying to do these things. Better coordination is needed. And seed money is needed for places that do not yet have plans or programs up and running.

I think the Federal Government has a role to play. It can provide the seed money. It can support the research. And then it should yield to the parents, teachers, clergy, the community. Let them use this information to find the best way to help their own kids.

I am introducing legislation today to do this. Under the bill, the Department of Education would help coordinate Federal programs and information relating to the prevention of youth suicide. The Department would serve as a liaison between the Federal Government and the organizations concerned with the prevention of youth suicide. The Department would also prepare an annual summary of research on effective programs in this field.

The bill provides for a national hotline and a national resource center and clearinghouse for youth suicide, training for people who will train others in services for suicide prevention, a public awarness campaign, technical assistance to State and local education agencies and organizations involved in suicide prevention activities, and dissemination of information about effective programs. These programs would be contracted to outside organizations.

An Advisory Board on Youth Suicide would be established to provide advice and expertise to the Secretary of Education. The advisory board would have nine members, three each appointed by the President, the Senate and the House of Representatives. The appointments would be chosen from names recommended by groups representing parents, teens, educators, counselors, mental health organizations, physicians, nurses, businesses, print and broadcast media, and organizations concerned with youth mental health and suicide.

The Department of Education would make grants to local school districts and private nonprofit agencies to make plans for coordinated suicide prevention services. The plans would cover awareness activities, training, counseling of youth who have attempted suicide and family and friends of those who have committed suicide, and coordination with related activities.

Grants would also be made to public and private organizations for demonstration and evaluation of innovative programs for suicide prevention. Another grant program would support research projects to evaluate existing programs and identify risk factors. Finally grants would be made to improve data collection on completed and attempted suicides.

The national hotline and resource center and clearinghouse would be established as public-private partnerships. The national hotline would be particularly helpful for young people and those close to them who live outside major metropolitan areas. In areas which could not support local hotline, especially a 24-hour one, the national hotline could fill a gap and could refer people to local services.

The planning and demonstration grants would require a 25-percent matching share. Again, these grants could support public-private partnership activities. The total first year authorization would be $11 million. The authorization over the remaining 3 years would decline, to make clear that this is a program of seed money intended to leverage other public and private funding sources.

Through the planning grants, I expect that local educators, families, and community leaders would work together to decide what is best for their community to do to prevent the tragedy of youth suicide and to deal with the aftermath when a suicide occurs. Adults in daily contact with young people—such as parents, school administrators, teachers, counselors, religious leaders, coaches, community leaders—and young people themselves, need to be more aware of the clues and warnings signs provided by youth contemplating suicide. They need to have more information about how to help these young people and how to refer them to appropriate counseling and other professional services. If the entire community can work together to show their caring for the young people in their midst, then perhaps we can avert more of these tragedies.

The demonstration program, research and data collection grants will provide the backup, the foundation of knowledge that will support the planning efforts. We need to know more about what causes suicide and what can stop it, but we cannot wait until we have perfect knowledge to do something. That is why my proposal contains a mix of near-term community efforts and long-term research.

To sum up, childhood and youth should be happy times—times of learning—and yearning, dreaming of a bright tomorrow. We need to take away those things that cast a shadow on tomorrow. We need to encourage the dream.

Understanding and fighting youth suicide is one step. The foundation for tomorrow is truly found in the best possible education. I urge my colleagues to join me in supporing this bill, and I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Youth Suicide Prevention Act of 1987".

FINDINGS

SEC. 2. The Congress finds that—

(1) the rate of suicide among adolescents has tripled in the last 30 years;

(2) more than 5,000 young people committed suicide in 1986, making suicide the second highest cause of death for people between the ages of 15 and 24;

(3) experts estimate that 500,000 more adolescents attempted suicide in 1986;

(4) thousands of families, friends, schools, and communities are affected by the tragedy of young people taking their own lives;

(5) experts in the study of suicide believe that many suicides can be prevented by suicide awareness programs and crisis intervention programs for youth and their families;

(6) Federal, State, and local governments, together with families, educators, mental health workers, juvenile justice workers, churches, synagogues, and other community resources, must be involved in helping young people to find reasons to live and ways to respond to their problems;

(7) a national resource center and clearinghouse could serve to educate and coordinate public and private organizations involved with suicide prevention efforts;

(8) more research is needed on the causes of suicide and on effective suicide prevention programs and other programs for troubled youth; and

(9) more evaluation is needed to identify effective programs to assist youth who have attempted suicide.

PURPOSES

SEC. 3. The purposes of this Act are—

(1) to provide for coordination of national, State and local efforts to help individuals who are in daily contact with young people to prevent youth suicides through the early identification of, assessment of, and referral to counseling, medical services, and mental health services of, young people vulnerable to, or contemplating, suicide;

(2) to stimulate and encourage State and local governments and community organizations to plan suicide prevention services and mental health services for troubled youth;

(3) to demonstrate innovative types of programs to prevent youth suicide and to provide mental health services for youth;

(4) to support research into the causes and prevention of youth suicide; and

(5) to support improved data collection on suicides and attempted suicides as a means of understanding and preventing youth suicide.

DUTIES OF THE SECRETARY OF EDUCATION

SEC. 4. (a) The Secretary of Education (hereinafter referred to as the "Secretary") shall—

(1) facilitate the coordination of Federal programs and information relating to the prevention of youth suicide;

(2) act as a liaison between the Federal Government and organizations concerned with the prevention of youth suicide, including schools, parent and youth groups, and organizations representing providers of counseling, mental health services, and crisis intervention services for youth;

(3) analyze, compile, publish, and disseminate an annual summary of recently completed research, research in progress, and Federal, State, and local demonstration projects relating to identification of potential youth suicides and prevention of youth suicide, with particular emphasis on—

(A) effective models of Federal, State, and local coordination and cooperation in youth suicide prevention activities;

(B) effective programs designed to promote community awareness of the problem of youth suicide; and

(C) effective models of programs which provide treatment, counseling, or other aid to families, friends, schools, and others in the community who have been affected by an incident of youth suicide; and

(4) prepare, in consultation with the Advisory Board established under section 5, an annual comprehensive plan for facilitating cooperation and coordination among all agencies and organizations with responsibilities relating to the prevention of youth suicide.

(b) The Secretary, either by making grants to or entering into contracts with public and nonprofit private agencies, shall—

(1) establish and operate a national toll-free telephone line by which young people and their families may obtain easily accessible information regarding suicidal crises; and

(2) establish and operate a national resource center and clearinghouse to—

(A) disseminate information to the public with respect to youth suicide, and coordinate the activities of the clearinghouse with activities relating to youth suicide conducted by the Secretary and by the Secretary of Health and Human Services;

(B) conduct training programs for individuals who will train others to provide suicide prevention services for youth;

(C) conduct a national campaign to increase public awareness concerning youth suicide, including the provision of information concerning community resources available to prevent youth suicide and to treat youths who have attempted suicide;

(D) provide technical assistance to State and local education agencies and governments, public and nonprofit private agencies, and individuals conducting programs and activities to prevent youth suicide; and

(E) disseminate information about innovative and model programs, research, and services relating to the prevention of youth suicide.

(c) The authority of the Secretary to enter into contracts under subsection (b) shall be to such extent or in such amounts as are provided in appropriation Acts.

ADVISORY BOARD

SEC. 5. (a) There is established in the Department of Education an Advisory Board on Youth Suicide (hereinafter referred to as the 'Advisory Board'). The Advisory Board shall provide advice and expertise to the Secretary concerning the programs and activities of the resource center and clearinghouse established under section 4(b)(2).

(b)(1) The Advisory Board shall consist of nine members, of which—

(A) three members shall be appointed by the President;

(B) three members shall be appointed by the majority leader and the minority leader of the Senate, acting jointly; and

(C) three members shall be appointed by the Speaker of the House of Representatives and the minority leader of the House of Representatives, acting jointly.

(2) In appointing members to the Advisory Board under paragraph (1), the President, the majority leader and the minority leader of the Senate, and the Speaker and the minority leader of the House of Representatives shall request recommendations from organizations concerned with youth mental health and youth suicide, including organizations representing parents, adolescents, physicians, nurses, educators, counselors, business, and the print and broadcast media.

(c) Members of the Advisory Board shall be appointed within 60 days after the date of enactment of this Act.

(d) Each member of the Advisory Board shall be appointed for a term of four years, except that—

(1) of the members first appointed under subsection (b)(1)(A), one shall be appointed for a term of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years, as designated by the President at the time of appointment;

(2) of the members first appointed under subsection (b)(1)(B), one shall be appointed for a term of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years, as designated by the majority leader and the minority leader of the Senate at the time of appointment; and

(3) of the members first appointed under subsection (b)(1)(C), one shall be appointed for a term of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years, as designated by the Speaker and the minority leader of the House of Representatives at the time of appointment.

(e) A vacancy in the Advisory Board shall be filled in the same manner as the original appointment was made. Any member appointed to a fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member of the Advisory Board may serve after the expiration of the member's term until a successor has taken office.

(f) A vacancy in the Advisory Board shall not affect its powers.

(g) The members of the Advisory Board shall elect a Chairman from among the members of the Advisory Board.

(h) Five members of the Advisory Board shall constitute a quorum, but a lesser number may hold hearings.

(i) The Advisory Board shall hold its first meeting on a date specified by the Secretary which is not later than 90 days after the date of enactment of this Act. Thereafter, the Advisory Board shall meet at the call of the Chairman or a majority of its members, but shall meet at least three times each year.

(j)(1) Each member of the Advisory Board shall serve without compensation.

(2) While away from their homes or regular places of business in the performance of duties for the Advisory Board, all members of the Advisory Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

PLANNING GRANTS

SEC. 6. (a) The Secretary shall make grants to local education agencies and private nonprofit agencies for the development of plans for the provision of suicide prevention services and mental health services for youth. Each plan developed with a grant under this section shall include provisions for—

(1) the conduct of activities to increase public awareness of youth suicide and the mental health problems experienced by youth;

(2) the training of teachers, school administrators, school counselors, juvenile justice personnel, peer counselors, parents, and community leaders in the identification of youth with mental health problems and in the prevention of youth suicide;

(3) the counseling of youth who have attempted suicide;

(4) the counseling of the family and friends of youth who commit suicide; and

(5) the coordination of activities conducted and services provided under the plan with related activities conducted and related services provided by Federal, State, and local governments, public and nonprofit entities, and community organizations.

(b) Each plan developed with a grant under this section shall—

(1) identify the resources that will be used to carry out activities and services under the plan and the manner in which such resources will be used to carry out such activities and services;

(2) specify the sources of funding to support such activities and services;

(3) specify the manner in which training will be provided under the plan to school personnel, juvenile justice personnel, peer counselors, parents, and community leaders;

(4) describe the data collection activities that will be conducted under the plan;

(5) describe the manner in which professionals who provide mental health and suicide prevention services for youth, as well as parents, will be involved in activities conducted and services provided under the plan;

(6) specify the activities that will be conducted under the plan to increase public awareness of the problems leading to youth suicide; and

(7) contain such other information as the Secretary may require.

(c) The Federal share of the costs of developing a plan under this section shall be 75 percent. The non-Federal share of such costs may be paid in cash or in kind, and may be paid from public or private sources.

DEMONSTRATION PROJECTS

SEC. 7. (a) The Secretary shall make grants to public and nonprofit private entities for projects to demonstrate and evaluate innovative models of preventing youth suicide.

(b) The Secretary shall make grants under this section to support not more than 10 projects described in subsection (a) for each fiscal year.

(c) A grant under this section shall be made for a one-year period, and may be renewed for one additional one-year period.

(d) The Federal share of the costs of any project supported with a grant under this section shall be 75 percent. The non-Federal share of such costs may be paid in cash or in kind, and may be paid from public or private sources.

RESEARCH GRANTS

SEC. 8. The Secretary shall make grants to public and nonprofit private entities to support research projects designed to—

(1) evaluate existing programs for the prevention of, and intervention in, youth suicide;

(2) identify factors which indicate that a youth is at risk of attempting or committing suicide; or

(3) develop comparative data concerning the risk factors respecting youth suicide existing in various communities and the effectiveness of youth suicide prevention and intervention activities carried out in such communities.

DATA COLLECTION GRANTS

SEC. 9. The Secretary shall make grants to public and nonprofit private entities for projects to improve data collection with respect to youth suicide, including projects to—

(1) improve the accuracy of official certifications of the cause of death in cases of youth suicide; and

(2) increase reporting of cases of attempted suicide.

APPLICATIONS AND REPORTS

SEC. 10. (a). No grant may be made under this Act unless an application therefor is submitted to the Secretary. Each such application shall be submitted in such form, at such time, and containing such information, as the Secretary may prescribe.

(b) Each recipient of a grant under this Act shall submit to the Secretary such reports concerning the activities conducted under the grant as the Secretary may prescribe.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 11. (a) To carry out section 4(b)(1), there are authorized to be appropriated $2,000,000 for each of the fiscal years 1988, 1989, 1990, and 1991.

(b) To carry out section 4(b)(2), there are authorized to be appropriated $2,000,000 for fiscal year 1988, $1,500,000 for fiscal year 1989, $1,000,000 for fiscal year 1990, and $500,000 for fiscal year 1991.

(c) To carry out section 6, there are authorized to be appropriated $3,000,000 for fiscal year 1988, $2,500,000 for fiscal year 1989, $1,500,000 for fiscal year 1990, and $500,000 for fiscal year 1991.

(d) To carry out section 7, there are authorized to be appropriated $1,000,000 for each of the fiscal years 1988, 1989, 1990, and 1991.

(e) To carry out section 8, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1988 and 1989, and $1,000,000 for each of the fiscal years 1990 and 1991.

(f) To carry out section 9, there are authorized to be appropriated $1,000,000 for each of the fiscal years 1988 and 1989, and $500,000 for each of the fiscal years 1990 and 1991.●

By Mr. DODD (for himself and Mr. PELL):

S.J. Res. 128. Joint resolution prohibiting the sale to Honduras of certain defense articles and related defense services; to the Committee on Foreign Relations.

PROHIBITING THE SALE OF DEFENSE ARTICLES AND SERVICES TO HONDURAS

● Mr. PELL. Mr. President, today, I am joining Senator DODD as a cosponsor to the joint resolution prohibiting the sale of F-5E's to Honduras because it is not in the best interests of the United States nor is it in the interest of peace in tension-ridden Central America. The Foreign Relations Committee received the official notification of the sale late yesterday afternoon; the Congress has 30 days to enact legislation and this joint resolution prohibiting the sale is being introduced quickly so that the issue can get the fullest airing and cooler heads can prevail.

At the appropriate time I will elaborate on the reasons why I believe the Congress should reject the proposed sale. For now suffice it to say that my opposition is based on the belief that the sale of F-5E's to Honduras represents a basic change in the policy of not introducing sophisticated armament into the region and because it represents an escalation of the already tense situation in Central America. I understand the desire of the Honduran Government to modernize its air force and the desire of the administration to assist, but surely there are other aircraft that could serve the purpose and would not represent such a threat to the already too-fragile peace in the area. Finally, I believe that it is very unwise to take such a drastic military step at the very time when the five Central American presidents are preparing for the meeting next month in Guatemala to consider the Costa Rican peace initiative.

Mr. President, I am sure that other Senators will want to join as cosponsors of this important resolution.●

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. CRANSTON, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 10, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

S. 249

At the request of Mr. DODD, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 249, a bill to grant employees parental and temporary medical leave under certain circumstances, and for other purposes.

S. 265

At the request of Mr. HUMPHREY, the names of the Senator from Colorado [Mr. ARMSTRONG], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Washington [Mr. EVANS] were added as cosponsors of S. 265, a bill to require executive agencies of the Federal Government to contract with private sector sources for the performance of commercial activities.

S. 303

At the request of Mr. BRADLEY, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 303, a bill to establish a Federal program to strengthen and improve the capability of State and local educational agencies and private nonprofit schools to identify gifted and talented children and youth and to provide those children and youth with appropriate educational opportunities, and for other purposes.

S. 447

At the request of Mr. CHAFEE, the name of the Senator from Vermont [Mr. STAFFORD] was added as a cosponsor of S. 447, a bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on cigarettes to 32 cents per pack and on snuff and chewing tobacco to 8 cents per package.

S. 476

At the request of Mr. DODD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 476, a bill to provide assistance in the development of new or improved programs to help younger persons 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; and to provide for a White House Conference on Young Americans.

S. 573

At the request of Mr. LAUTENBERG, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 573, a bill to protect patent owners from importation into the United States of goods made overseas by use of a U.S. patented process.

S. 616

At the request of Mr. DODD, the names of the Senator from Ohio [Mr. GLENN], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 616, a bill to amend the Truth in Lending Act to provide for more detailed and uniform disclosure

by credit card issuers with respect to information on interest rates and other fees which may be incurred by consumers through the use of any credit card, and for other purposes.

S. 714

At the request of Mr. SPECTER, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 714, a bill to recognize the organization known as the Montford Point Marine Association, Inc.

S. 736

At the request of Mr. HARKIN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 736, a bill to prohibit the performance of certain functions at arsenals and manufacturing facilities of the Department of Defense from being converted to performance by private contractors.

S. 750

At the request of Mr. BRADLEY, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from California [Mr. CRANSTON], the Senator from Vermont [Mr. STAFFORD], the Senator from New York [Mr. MOYNIHAN], the Senator from Illinois [Mr. SIMON], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Michigan [Mr. RIEGLE], the Senator from Utah [Mr. GARN], the Senator from Hawaii [Mr. INOUYE], the Senator from Nevada [Mr. REID], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KERRY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Tennessee [Mr. GORE], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 750, a bill to amend the Foreign Assistance Act of 1961 to authorize appropriations for the "Child Survival Fund."

S. 780

At the request of Mr. REID, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 780, a bill to amend the enforcement provisions of the Federal Election Campaign Act of 1971.

S. 902

At the request of Mr. MCCLURE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 902, a bill to amend the Food Security Act of 1985 and the National School Lunch Act to extend to 1992 the eligibility of certain school districts to receive alternative forms of assistance for school lunch programs and to amend the Agriculture and Food Act of 1981, the Child Nutrition Amendments of 1986, and the School Lunch and Child Nutrition Amendments of 1986 to extend to 1992 the National Donated Commodity Processing Program.

S. 943

At the request of Mr. ADAMS, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 943, a bill to amend the Federal Aviation Act of 1958 to ensure the fair treatment of airline employees in airline mergers and similar transactions.

S. 961

At the request of Mr. HEINZ, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 961, a bill to amend title XVIII of the Social Security Act to allow medicare coverage for home health services provided on a daily basis.

S. 962

At the request of Mr. HEINZ, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 962, a bill to amend the Internal Revenue Code of 1986 to allow a credit against tax for expenses incurred in the care of elderly family members.

S. 964

At the request of Mr. MCCLURE, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 964, a bill to amend the Meat Import Act of 1979 to include imports of lamb.

S. 997

At the request of Mr. PELL, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 997, a bill to require the Director of the National Institute on Aging to provide for the conduct of clinical trials on the efficacy of the use of tetrahydroaminoacidine in the treatment of Alzheimer's disease.

S. 999

At the request of Mr. CRANSTON, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 999, a bill to amend title 38, United States Code, and the Veterans' Job Training Act to improve veterans employment, counseling, and job-training services and program.

S. 1009

At the request of Mr. MATSUNAGA, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1009, a bill to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

S. 1044

At the request of Mr. HEINZ, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 1044, a bill to provide for Medicare coverage of influenza vaccine and its administration.

S. 1069

At the request of Mr. BINGAMAN, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of S. 1069, a bill to revise and extend the older American Indian Grant Program under the Older Americans Act of 1965, and for other purposes.

S. 1107

At the request of Mr. ROTH, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1107, a bill to terminate employment of aliens in U.S. missions and consular posts in certain Communist countries.

S. 1193

At the request of Mr. MATSUNAGA, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1193, a bill to add additional lands to the Kilauea Point Wildlife Refuge on Kauai, HI.

SENATE JOINT RESOLUTION 26

At the request of Mr. PELL, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 26, a joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

SENATE JOINT RESOLUTION 87

At the request of Mr. RIEGLE, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Rhode Island [Mr. PELL], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 87, a joint resolution to designate November 17, 1987, as "National Community Education Day."

SENATE JOINT RESOLUTION 88

At the request of Mr. BRADLEY, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. DIXON], the Senator from North Carolina [Mr. SANFORD], the Senator from Alaska [Mr. STEVENS], the Senator from Delaware [Mr. ROTH], the Senator from Utah [Mr. GARN], the Senator from Nebraska [Mr. KARNES], the Senator from Virginia [Mr. WARNER], the Senator from Maryland [Mr. SARBANES], the Senator from Illinois [Mr. SIMON], the Senator from Alabama [Mr. HEFLIN], the Senator from Arkansas [Mr. PRYOR], the Senator from Massachusetts [Mr. KERRY], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 88, a joint resolution to designate the period commencing November 15, 1987, and ending November 21, 1987, as "Geography Awareness Week."

SENATE JOINT RESOLUTION 97

At the request of Mr. HATCH, the names of the Senator from Arizona

[Mr. McCAIN], the Senator from Indiana [Mr. QUAYLE], the Senator from Alaska [Mr. STEVENS], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 97, a joint resolution to designate the week beginning November 22, 1987, as "National Adoption Week."

SENATE JOINT RESOLUTION 98

At the request of Mr. HATCH, the names of the Senator from Ohio [Mr. GLENN], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 98, a joint resolution to designate the week of November 29, 1987, through December 5, 1987, as "National Home Health Care Week."

SENATE JOINT RESOLUTION 108

At the request of Mr. LUGAR, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of Senate Joint Resolution 108, a joint resolution to designate October 6, 1987, as "German-American Day."

SENATE JOINT RESOLUTION 111

At the request of Mr. HEINZ, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Nevada [Mr. REID], the Senator from Texas [Mr. BENTSEN], the Senator from Iowa [Mr. HARKIN], the Senator from Connecticut [Mr. WEICKER], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 111, a joint resolution to designate each of the months of November 1987, and November 1988, as "National Hospice Month."

SENATE JOINT RESOLUTION 126

At the request of Mr. PACKWOOD, the name of the Senator from Wisconsin [Mr. PROXMIRE] was added as a cosponsor of Senate Joint Resolution 126, a joint resolution to designate March 16, 1988, as "Freedom of Information Day."

SENATE CONCURRENT RESOLUTION 15

At the request of Mr. HEFLIN, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of Senate Concurrent Resolution 15, a concurrent resolution expressing the sense of the Congress that no major change in the payment methodology for physicians' services, including services furnished to hospital inpatients, under the Medicare Program should be made until reports required by the 99th Congress have been received and evaluated.

AMENDMENT NO. 160

At the request of Mr. CRANSTON, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of amendment No. 160 intended to be proposed to S. 999, a bill to amend title 38, United States Code, and the Veterans' Job Training Act to improve veterans employment, counseling, and job-training services and program.

SENATE CONCURRENT RESOLUTION 58—URGING CONGRESSIONAL SUPPORT FOR PRIVATE SECTOR EFFORTS TO ALLEVIATE LOSSES SUFFERED BY RETIREES AND EMPLOYEES AS A RESULT OF PENSION PLAN TERMINATIONS

Mr. METZENBAUM (for himself, Mr. HEINZ, and Mr. SPECTER) submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 58

Whereas with the enactment of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. 1001 et seq.), Congress has made the retirement income security of millions of Americans a vital public policy objective;

Whereas ERISA seeks to assure older Americans that their expectations of retirment income will be secure by requiring private employers to meet their pension commitments in full;

Whereas ERISA provides a guarantee of pension benefits under defined benefit pension plans through the Pension Benefit Guaranty Corporation (PBGC) to cover those cases in which employers are unable to meet their full pension benefit obligations due to financial hardship;

Whereas pension plan terminations have victimized tens of thousands of older Americans;

Whereas when a defined benefit pension plan is terminated, the guarantee of pension benefits by the PBGC does not protect all pension expectations of American retirees and employees;

Whereas this loss of pension benefits impoverishes individuals on fixed incomes and impairs public confidence in the private pension system of the United States.

Whereas even as Congress explores ways of strengthening the pension insurance system to prevent benefit losses, Congress supports responsible private sector efforts to alleviate these devastating losses of retirement income;

Whereas following the termination of a defined benefit pension plan, it is possible through collective bargaining to establish new arrangements under which an employer may restore pension benefits not guaranteed by the PBGC;

Whereas adoption of these arrangements is an example of employees and retirees seeking to enforce their previously bargained retirement rights, and affords employees and retirees not represented by a labor organization similar retirement security; and

Whereas no responsible agency of the United States Government can or should oppose these private efforts to alleviate the acute hardships caused by short-falls in the pension system of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) expresses its fullest support for privately sponsored programs to alleviate unexpected losses of retirement income caused by pension plan terminations;

(2) affirms the right of labor organizations and employers to engage in free collective bargaining aimed at addressing the acute needs of older Americans affected by pension plan terminations; and

(3) applauds private efforts to supplement the public system of pension guarantees and expresses the sense of Congress that such efforts are fully consistent with the purposes of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

● Mr. METZENBAUM. Mr. President, today I am submitting a concurrent resolution expressing congressional support for private efforts to alleviate pension benefit losses.

Our current pension program includes an insurance program to guarantee retirees and workers a basic level of pension coverage when companies fail to fully fund their pension promises. While this Government insurance program is a vital part of our pension system, it does not guarantee every promised pension dollar. In fact, many workers and retirees suffer significant losses when an underfunded pension plan is terminated.

In many of these instances company sponsors and unions negotiate new retirement arrangements to help reduce losses to workers and retirees. Similar retirement programs are often established for nonunion workers and retirees. These new follow-on arrangements are the only way to prevent many retirees from suffering extreme financial hardships.

Mr. President, the pension insurance system does not provide complete protection for American workers. I hope that one day we will expand the insurance guarantees and strengthen the minimum funding requirements to prevent broken pension promises. But until we do so I believe that this Government should do everything possible to lend support and encouragement to private arrangements that strengthen retirement security. This resolution express the sense of Congress that such efforts are entirely consistent with the spirit and letter of our pension laws.●

SENATE RESOLUTION 215—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 215

Whereas, in the case of *Ned Ray McWherter* v. *George Bush, et al.*, Case No. 87-1184-JHG, pending in the United States District Court for the District of Columbia, the plaintiff has named George Bush, in his capacity as President of the Senate, and John C. Stennis, in his capacity as President pro tempore of the Senate, as defendants;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1)(1982), the Senate may direct its counsel to represent Members and officers of the Senate in civil actions relating to their official responsibilities; Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to represent the President of the Senate and the President pro tempore of the Senate in the case of McWherter v. Bush, et al.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

PROXMIRE AMENDMENT NO. 195

(Ordered to lie on the table.)

Mr. PROXMIRE submitted an amendment intended to be proposed by him to the bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. 812. COMMISSION ON FREEDOM OF THE DEPARTMENT OF DEFENSE PRESS

(a) ESTABLISHMENT, COMPOSITION, AND INITIAL ORGANIZATION OF COMMISSION.—There is established the Commission on Freedom of the Department of Defense Press (hereafter in this section referred to as the "Commission").

(2)(A) The Commission shall be composed of 5 members appointed by the Secretary of Defense from among 10 persons who have demonstrated distinguished service in the field of journalism and are nominated by one or more professional journalism organizations designated by the Secretary.

(B) Members of the Armed Forces, employees of the Federal Government, and persons outside the Federal Government who perform any work in support of the Department of Defense shall be ineligible to serve as members of the Commission.

(3) The Commission shall select a Chairman and Vice Chairman from among its members.

(4) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(5)(A) The Secretary of Defense shall make all appointments under paragraphs (2) within 60 days after the date of the enactment of this Act.

(B) The Commission shall convene its first meeting within 15 days after the first date on which all members of the Commission have been appointed. At that meeting the Commission shall select its Chairman and Vice Chairman and develop an investigative agenda and schedule for carrying out its duties under this section.

(b) DUTIES OF THE COMMISSION.—The Commission shall—

(1) examine—

(A) the editorial policies and operations of the Pacific edition of the Stars and Stripes newspaper published by the Commander-in-Chief of the United States Pacific Command;

(B) the editorial policies and operations of the European edition of the Stars and Stripes newspaper published by the Commander-in-Chief of the United States European Command; and

(C) the policies and requirements of Department of Defense Instruction 5120.4, dated November 14, 1984,

to determine whether any censorship and news management is permitted by such policies and requirements or is practiced in such operations, and, if censorship of news management is practiced in such operations, whether the practice is impending the free flow of news and information to military personnel;

(2) identify and investigate complaints made to the Department of Defense or the Commission by members and former members of the journalistic staff of the Pacific edition of the Stars and Stripes or the European edition of the Stars and Stripes with respect to matters within the responsibility of the Commission under paragraph (1); and

(3) determine whether increased civilian participation in the editorial operations of such newspapers, including the appointment of a civilian to serve as editor-in-chief of each such newspaper, will decrease the likelihood of censorship and news management in the flow of news and information to military personnel.

(d) REPORT.—Not later than 90 days after the date on which the Commission convenes its first meeting, the Commission shall submit to the Secretary of Defense and Congress a written report containing the results of its investigation under this section together with such recommendations as it considers appropriate.

(e) POWERS OF THE COMMISSION.—(1) The Commission or, at its direction, any subcommittee or member of the Commission, may, for the purpose of carrying out the provisions of this section, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Commission or such subcommittee or member considers advisable.

(2) The Commission may secure directly from the Department of Defense, any other Federal department or agency, or the Stars and Stripes newspapers such information as the Commission considers necessary to enable the Commission to carry out its responsibilities under this section. Upon request of the Chairman of the Commission, the head of such department, agency, or newspaper shall furnish such information to the Commission.

(f) COMMISSION PROCEDURES.—(1) The Commission shall meet at the call of the Chairman.

(2)(A) Three members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(B) The Commission shall act by resolution agreed to by a majority of a quorum of the Commission.

(3) The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(4) All meetings and hearings of the Commission and any panels established by the Commission shall be open to the public.

(5) Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this section.

(6)(A) Subpenas issued pursuant to subsection (e)(1) shall bear the signature of the Chairman of the Commission and shall be served by any person or class of persons designated by the Chairman for that purpose.

(B) In the case of contumacy or failure to obey a subpena issued under subsection (e)(1), the United States district court for the judicial district in which the subpenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(7) The provisions of section 1821 of title 28, United States Code, shall apply to witnesses requested or subpenaed to appear at any hearing of the Commission. The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Commission.

(g) COMMISSION PERSONNEL MATTERS.—(1)(A) Except as provided in subparagraph (B), each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of the duties of the Commission.

(B) The Secretary of Defense may accept the voluntary services of any member of the Commission who offers to serve as a member without compensation. No compensation shall be paid under this subsection for voluntary services furnished by a member of the Commission and accepted by the Secretary.

(2) The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3)(A) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate a staff director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of a staff director shall be subject to confirmation by the Commission.

(B) The Chairman of the Commission may fix the compensation of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the staff director and other personnel may not exceed the rate payable for GS-18 of the General Schedule under section 5332 of such title.

(4) Any Federal Government employee may be detailed to the Commission without reimbursement of the employee's agency by the Commission, and such detail shall be without interruption or loss of civil service status or privilege.

(5) The Chairman of the Commission may procure temporary and intermittent service under section 3109(b) of title 5, United States Code, at rates for individuals which

do not exceed the daily equivalent of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of such title.

(6) Service of an individual as a member of the Commission or employment of an individual by the Commission on a part-time or full-time basis and with or without compensation shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 or 8468 of title 5, United States Code, or any comparable provision of Federal law.

(h) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—(1) The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(2) The Administrator of General Services shall furnish the Commission on a reimbursable basis, any administrative and support services requested by the Commission.

(3) To the maximum extent possible, the members and employees of the Commission shall travel on military aircraft, military ships, military vehicles, or other military conveyances when travel is necessary in the performance of a responsibility of the Commission, except that no such aircraft, ship, vehicle, or other conveyance may be scheduled primarily for the transportation of any such member or employee when the cost of commercial transportation is less expensive.

(i) TERMINATION OF THE COMMISSION.—The Commission shall terminate 60 days after the date on which the Commission submits its report under subsection (d).

(j) PAYMENT OF COMMISSION EXPENSES.—The compensation, travel expenses, and per diem allowances of members and employees of the Commission shall be paid out of funds available to the Department of the Army for the payment of compensation, travel allowances, and per diem allowances, respectively, of civilian employees of the Department of the Army. The other expenses of the Commission shall be paid out of funds available to the Department of the Army for the payment of similar expenses incurred by that Department.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SECURITIES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Wednesday, May 13, 1987, at 9:30 a.m. to hold a hearing on authorizations for the Securities and Exchange Commission.

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

SUBCOMMITTEE ON HAZARDOUS WASTES AND TOXIC SUBSTANCES AND THE SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Hazardous Wastes and Toxic Substances and the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on May 13, beginning at 9:30 a.m., to hold a hearing on stratospheric ozone depletion and substitutes for ozone depleting chemicals.

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

SUBCOMMITTEE ON CONSUMERS

Mr. BYRD. Mr. President, I ask unanimous consent that the Consumer Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 13, 1987, at 9:30 a.m. to hold hearings on proposed legislation authorizing funds for the Consumer Product Safety Commission [CPSC].

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the national ocean policy study, be authorized to meet during the session of the Senate on May 13, 1987, at 2 p.m. to hold oversight hearings and on proposed legislation authorizing funds for the ocean and coastal programs of the National Oceanic and Atmospheric Administration [NOAA].

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

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on May 13, 1987, at 10 a.m. to hold a hearing on drug testing.

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

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on May 13, 1987, at 2:30 p.m., to hold a hearing on judicial nominations.

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

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES, AND BUSINESS RIGHTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies, and Business Rights of the Committee on the Judiciary be authorized to meet during the session of the Senate on May 13, 1987, at 2 p.m. to hold a hearing on railroad antitrust immunity.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on May 13, 1987, at 2 p.m. to hold markup on trade legislation pending in the committee.

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

ADDITIONAL STATEMENTS

AMENDMENT TO THE RULES OF THE COMMITTEE ON THE JUDICIARY

● Mr. BIDEN. Mr. President, I hereby submit for the RECORD an amendment to the rules of the Committee on the Judiciary as approved by the committee on April 8, 1987.

The amendment reads as follows:

VI. ATTENDANCE RULE

From April 8, 1987 until April 8, 1988 official attendance of all Committee markups and executive sessions of the Committee shall be kept by the Committee Clerk. Official attendance of all Subcommittee markups and executive sessions shall be kept by the Subcommittee Clerk.

Official attendance of all hearings shall be kept, provided that, Senators are notified by the Committee Chairman and Ranking Member, in the case of Committee hearings, and by the Subcommittee Chairman and Ranking Member, in the case of Subcommittee hearings, 48 hours in advance of the hearing that attendance will be taken. Otherwise, no attendance will be taken. Attendance at all hearings is encouraged.

I ask that a copy of the rules of the Judiciary Committee be printed in the RECORD.

The material follows:

RULES OF THE COMMITTEE ON THE JUDICIARY [1]

I. MEETINGS OF THE COMMITTEE

1. Meetings may be called by the Chairman as he may deem necessary on three days notice or in the alternative with the consent of the Ranking Minority Member or pursuant to the provision of the Standing Rules of the Senate, as amended.

2. Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee, at least 48 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

3. On the request of any member, a nomination or bill on the agenda of the Committee will be held over until the next meeting of the Committee or for one week, whichever occurs later.

II. QUORUMS

1. Eight members shall constitute a quorum of the Committee when reporting a bill or nomination; provided that proxies shall not be counted in making a quorum.

[1] Reaffirmed by the Committee on the Judiciary in executive session on February 22, 1983. Printed in the Congressional Record on February 23, 1983, pursuant to the Legislative Reorganization Act of 1970.

2. For the purpose of taking sworn testimony, a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

III. PROXIES

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a quorum being present, a member who is unable to attend the meeting may submit his vote by proxy, in writing or by telephone, or through personal instructions. A proxy must be specific with respect to the matters it addresses.

IV. BRINGING A MATTER TO A VOTE

The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote. If there is objection to bring the matter to a vote without further debate, a rollcall vote of the Committee shall be taken, and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with eight votes in the affirmative, one of which must be cast by the Minority.

V. SUBCOMMITTEES

1. Any member of the Committee may sit with any Subcommittee during its hearings or any other meetings, but shall not have the authority to vote on any matter before the Subcommittee unless he is a member of such Subcommittee.

2. Subcommittees shall be considered denovo whenever there is a change in the subcommittee chairmanship, and seniority on the particular Subcommittee shall not necessarily apply.

3. Except for matters retained at the full Committee, matters shall be referred to the appropriate Subcommittee or Subcommittees by the Chairman, except as agreed by a majority vote of the Committee or by the agreement of the Chairman and the Banking Minority Member.●

FORMAL NOTIFICATION—PROPOSED ARMS SALE

● Mr. PELL. Mr. President, section 36(b)(1) of the Arms Export Control Act requires that Congress receive formal notification of proposed arms sales under the act in excess of $50 million, or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notification I have received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, May 11, 1987.

Mr. GERYLD B. CHRISTIANSON,
Staff Director, Committee on Foreign Relations, United States Senate, Washington, DC.

DEAR MR. CHRISTIANSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost $50 million or more.

Sincerely,

PHILIP C. GAST,
Director.●

THE "DEAR COMANDANTE" LETTER

● Mr. HUMPHREY. Mr. President, we all know how the crisis in Central America has created strong emotions on both sides. This will undoubtedly become even more evident as the Iran-Contra hearings proceed.

The hearings, of course, are focusing on alleged transgressions by those who believed we should support the Nicaraguan freedom fighters against the Communist Sandinista regime. I believe we should keep in mind the excesses of both sides in the debate, and for that reason I wish to summit in the RECORD the famous "Dear Comandante" letter of March 20, 1984. This document surely stands as one of the most curious, to say the least, to which a Member of Congress has ever set his or her hand.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 20, 1984.

Comandante DANIEL ORTEGA,
Coordinador de la Junta de Gobierno, Managua, Nicaragua.

DEAR COMANDANTE: We address this letter to you in a spirit of hopefulness and good will.

As Members of the U.S. House of Representatives, we regret the fact that better relations do not exist between the United States and your country. We have been, and remain, opposed to U.S. support for military action directed against the people or government of Nicaragua.

We want to commend you and the members of your government for taking steps to open up the political process in your country. The Nicaraguan people have not had the opportunity to participate in a genuinely free election for over fifty years. We support your decision to schedule elections this year, to reduce press censorship, and to allow greater freedom of assembly for political parties. Finally, we recognize that you have taken these steps in the midst of ongoing military hostilities on the borders of Nicaragua.

We write with the hope that the initial steps you have taken will be followed by others designed to guarantee a fully open and democratic electoral process. We note that some who have become exiles from Nicaragua have expressed a willingness to return to participate in the elections, if assurances are provided that their security will be protected, and their political rights recognized. Among these exiles are some who have taken up arms against your government, and who have stated their willingness to lay down those arms to participate in a truly democratic process.

If this were to occur, the prospects for peace and stability throughout Central America would be dramatically enhanced. Those responsible for supporting violence against your government, and for obstructing serious negotiations for broad political participation in El Salvador would have far greater difficulty winning support for their policies than they do today.

We believe that you have it in your power to establish an example for Central America that can be of enormous historical importance. For this to occur, you have only to lend real force and meaning to concepts your leadership has already endorsed concerning the rules by which political parties may compete openly and equitably for political power.

A decision on your part to provide these reasonable assurances and conduct truly free and open elections would significantly improve the prospect of better relations between our two countries and significantly strengthen the hands of those in our country who desire better relations based upon true equality, self-determination and mutual good will.

We re-affirm to you our continuing respect and friendship for the Nicaraguan people, and pledge our willingness to discuss these or other matters of concern with you or officials of your government at any time.

Very sincerely yours,

Jim Wright, Michael Barnes, Bill Alexander, Matthew F. McHugh, Robert G. Torricelli, Edward P. Boland, Stephen J. Solarz, David R. Obey, Robert Garcia, Lee H. Hamilton.●

YULI EDELSHTEIN IS RELEASED FROM PRISON

● Mr. LAUTENBERG. Mr. President, it is with great joy that I rise to share good news from the Soviet Union about my "adopted" refusenik, Yuli Edelshtein. I recently learned that Yuli has been released from the Novosibirsk prison, and that he has received permission to live with his wife and daughter in Moscow.

Yuli Edelshtein is a man of rare courage and determination. Several years ago, Yuli was denied permission to emigrate from the Soviet Union because of his father's alleged access to state secrets, despite the fact that Yuli had not seen his father in 20 years. After his application was refused, the KGB began to harass him, and he was eventually forced to leave his job as an English teacher. But Yuli was not discouraged, and he refused to let the Soviet authorities put a barrier between him and his religion. Fueled by a passion for Judaism and a longing to live in Israel, Yuli became an observant Jew and learned to teach Hebrew.

Because of his unyielding determination, the Soviets sought to crush Yuli. To put an end to Yuli's activities, the Soviets convicted him on trumped-up charges of "drug possession," and sentenced him to 3 years at a harsh labor camp.

In prison, Yuli's health deteriorated because serious injuries he sustained while performing hard labor were not properly treated. When Yuli broke his thigh and ruptured his urethra last year, his wife, Tatiyana, pleaded with Soviet officials to release her husband

from prison. She begged them to release Yuli from prison and transfer him to a Moscow hospital where the operations needed to prevent his permanent disability could be performed. But her pleas fell on deaf ears, and Yuli continued to languish in a Soviet prison hospital.

When I learned of my "adopted" refusenik's medical condition last year, I wrote a letter to General Secretary Gorbachev signed by a number of my colleagues urging him to release Yuli from prison early so he could receive medical attention in Moscow. But the Soviets would not budge. They refused to release Yuli from prison, and his condition continued to deteriorate.

By March, Yuli's condition was so bad that many believed he was in danger of losing his life. His broken thigh and ruptured urethra were a continual source of pain. He had experienced renal failure, an infection of the urethra, and had developed a strep infection on his skin. Again I felt it necessary to intervene on Yuli's behalf and to pressure the Soviets for his early release from prison. I feared that Yuli's release could not be delayed much longer without risking his life. That time had almost run out. So I drafted another letter to General Secretary Gorbachev, which 29 of my colleagues signed, pleading Yuli's case.

Mr. President, it was with great relief that I received the news about Yuli's release from prison. Fortunately Yuli's medical condition appears to have stabilized. But we have not received any information about the long-term effect of his injuries. And still, we do not know if he will suffer permanent damage because he was denied for so long necessary medical treatment.

The Soviet's decision to release Yuli was long overdue. Although this decision was certainly a step in the right direction, it is not enough. Now, the Soviets must give Yuli and his family permission to emigrate from the Soviet Union. Yuli has suffered in the Soviet Union long enough. His greatest desire is to live in Israel, where he will be able to freely and openly practice his faith. He deserves no less.

I will continue to press the Soviets at every opportunity until they grant Yuli and his family permission to emigrate. I hope my colleagues will do the same.●

TRIBUTE TO REGINALD SMITH CALIFORNIA NEWSPAPERMAN

● Mr. WILSON. Mr. President, I was saddened to learn this week of the recent passing of a young constituent of mine, a talented reporter, Mr. Reginald Smith. I first met Reggie at the outset of his career, when he joined the staff of the San Diego Tribune during my service as mayor of that city. He was on the Pulitzer Prize winning team that covered one of the saddest moments in the city's history, the PSA crash in 1978.

Apart from his talent and dedication, Reggie was an affable man, well liked both by his colleagues in the newsroom and by those of us whose service in public office he chronicled, such as Mayor Tom Bradley and Mayor Dianne Feinstein.

While his time with us was short, Reggie's work was lauded by his peers and his good nature was loved by his friends and family. He will be missed.

I would like at this point to insert in the RECORD the San Francisco Chronicle's obituary of Reginald Smith.

The obituary follows:

REGINALD SMITH—FORMER CHRONICLE CITY HALL REPORTER

Reginald Smith, a former City Hall reporter for The Chronicle, died yesterday at Cedars Sinai Medical Center in Los Angeles. He was 31.

Mr. Smith, who had been working as a reporter at the Los Angeles Times, entered Cedars Sinai on May 3 for a lung biopsy. Family members said Mr. Smith died of lung cancer.

"There were a lot of people who respected Reggie and felt he was a rising star in the field," said San Francisco Mayor Dianne Feinstein, whom Mr. Smith covered regularly from 1983 to 1986. "To have that star snuffed out at such an early age is a tragedy."

Born and reared in Los Angeles, Mr. Smith worked as a copyboy for the Los Angeles Times when he was 16 and was editor of his high school newspaper.

He attended West Los Angeles Junior College and graduated from San Diego State University in 1977, majoring in journalism and editing campus newspapers at both schools.

Mr. Smith went to work at the San Diego Tribune, where he was part of a team that won a Pulitzer Prize for deadline reporting on the 1978 crash of a jetliner on a San Diego neighborhood.

He moved to San Francisco to work as a City Hall reporter for The Chronicle in February 1983. During his three years at The Chronicle, Mr. Smith was proudest of his coverage of Jesse Jackson's 1984 presidential campaign.

In 1985, Mr. Smith won the San Francisco Press Club's Christopher Award, its highest honor, for a story that was part of series of articles exposing the waste and ineptitude in the Housing Authority.

He returned to the Los Angeles area last August to work in the San Fernando Valley bureau of the Los Angeles Times, where he covered Simi Valley and worked as a general assignment reporter.

He is survived by his parents, Rachel and Elliott; two sisters, Carol DeMorst and Jackie Winston; a brother, Elliott Jr., and John Maguire, his longtime companion. All the survivors live in Los Angeles.

Donations may be made to Cedars Sinai Medical Center, 8700 Beverly Boulevard, Los Angeles 90048-0939. Funeral arrangements are pending.●

S. 727—REGARDING NATIVE AMERICAN PEOPLE

● Mr. ADAMS. Mr. President, I rise in support of this legislation. This bill addresses a failure by the U.S. Government to honor its treaty obligations to the native American people. This breach of faith is of particular concern to me because the injured parties are from my State, members of the Lummi Tribe who live and fish in the Northwest corner of Washington.

In 1982, the IRS initiated action against members of this tribe for taxes allegedly owed on the value of fish caught in the exercise of treaty-protected fishing rights. About 60 tribal members were subject to these assessments, which total close to $1 million including back taxes and penalties.

These actions represent a major threat to the economic health of the Lummi Tribe. Fishing is the lifeblood of a struggling tribal economy. Individual fishermen rarely make as much as $10,000 a year. Some fishermen face potential tax liabilities several times the value of their annual incomes. There is the very real possibility that the IRS might seize people's boats and homes, and leave them destitute. The total benefit flowing to the U.S. Treasury from this potential heartbreak is estimated at $70,000 a year.

This IRS action is contrary to well-established legal principles governing the relationship between the Federal Government and Indian tribes. This bill does what the executive branch has failed to do so far. It declares that the IRS action is inconsistent with the Federal trust responsibility, and ensures that such actions will not occur again.

The bill says that any treaty, Executive order, or statute under which a tribe is recognized shall be construed to prohibit imposition of Federal, State, or local income tax on income derived from the exercise of rights to fish secured by such treaty, Executive order, or statute.

In 1855, the Point Elliot Treaty guaranteed to the Lummi Tribe the perpetual right to fish in their usual and accustomed places. This right has been confirmed many times by Federal courts.

It is a basic canon of the law of interpretation of native American treaties that treaties be interpreted to mean what the tribes thought they meant when they signed them. This means that the tribal leaders who signed the Port Elliot treaties are generally thought to have understood they would be able to continue fishing and trading without, in any way, having to turn over to the Federal Government a portion of their catch.

Imposition of Federal income tax on exercise of these treaty fishing rights is the equivalent of stopping tribal fishermen when they return to shore, and forcibly removing fish from their boats. As such, it represents a breach of Federal obligations under the treaty.

Furthermore, it is illogical to assert, as the IRS has in the past, that this income is taxable because the treaty in question does not specifically exempt this income from Federal income tax. Given that the treaty in question was signed nearly a half-century before a Federal income tax existed, this argument is not a sufficient basis for breaching the treaty.

It is also important to understand that Indian fishing income is protected from taxation only when exercised in accordance with a treaty, Executive order, or statute. Income derived from fishing outside of a tribe's usual and accustomed fishing grounds is, and always has been, subject to taxation.

In general, the overall response of the Federal Government to this situation has been very disappointing. In 1983 and 1985, the Department of Interior formally asserted that the IRS action was an attack on treaty law, and inconsistent with President Reagan's 1983 policy statement reaffirming the Government's intent to conduct a government-to-government relationship with Indian tribes. The Justice Department, however, chose to side with the IRS. The result is that tribal fishermen are forced to seek private representation in court because the Justice Department cannot represent both the Department of Interior and the Department of Treasury.

Mr. President, this bill represents a message by Congress to both the executive branch and native American peoples. The message is that the Federal trust responsibility is alive and well; and in satisfaction of those duties Congress intends to ensure that the Government keeps its word as solemnly sworn in treaty negotiations with a fellow sovereign entity so many years ago. I urge my colleagues to help us keep our word by passing this legislation.●

IN RECOGNITION OF DURWOOD AIRHART

● Mr. BOSCHWITZ. Mr. President, I would like to take this opportunity to help draw special attention to the fact that President Reagan has declared this week as Small Business Week, 1987.

As a businessman myself, I can appreciate the time, determination, and commitment it takes to start a small business and stick with it. The accomplishments of our Nation's entrepreneurs not only strengthen our Nation's economy, but provide inspiration to other entrepreneurs to undertake new ventures.

Because of their initiative and innovation, small business men and women strengthen the fiber of this Nation's landscape by providing much needed jobs around which our cities and towns can grow.

Just as importantly, I would like to make a special point of recognizing a constituent of mine from Litchfield, MN, Durwood Airhart, who has recently been recognized for his accomplishments as a small businessman by being named among the State Small Business Persons of the Year. Durwood is the CEO of Litchfield Precision Components, a high technology company specializing in chemical milling, laser welding and machining, and the production of glass optical components and flexible circuitry.

Along with three other employees, Durwood started his company in 1975. By 1986 the company had sales of $8 million and 220 employees. Even after a fire destroyed his company's plant, Durwood Airhart stuck with the city of Litchfield and within 10 months had a new plant operating and the prospects of increasing the payroll to 500 employees.

It is with great pride, as a businessman and Minnesotan, that I ask my colleagues to join with me in saluting Durwood Airhart and the rest of America's small business men and women.●

INDIAN TREATY FISHING RIGHTS

● Mr. BRADLEY. Mr. President, I am pleased to see that the full Senate is considering this legislation to clarify Indian treaty fishing rights.

Last year, I became involved with this issue when the plight of the Lummi Tribe came to my attention. The Lummi were rightfully upset when the IRS determined that fishing income would be taxable unless the treaty contained language specifically conferring income tax exemption.

This struck me as strange logic to apply to treaties that were negotiated as long ago as the 1850's—over six decades before the Federal income tax was even adopted. I am sure that had the Indian treaty negotiators known of the future existence of the IRS, they would have been more accommodating at the time.

Last spring, 33 U.S. Senators joined me in signing a letter telling the IRS and the Justice Department that the Indian claims are of substantial merit. These Senators were Republicans, Democrats, easterners and westerners. It was a broad-based group. It was my hope that the Justice Department might have listened to reason and logic of the Indian position. They didn't. This legislation is designed to settle the issue once and for all.

As the 99th Congress drew to a close, I offered an amendment to the debt ceiling bill. Senator EVANS joined me in that efort, and the amendment was adopted unanimously. Unfortunately, the House refused to act on any amendment to the bill, and these efforts were stalled.

We will not be stopped this Congress. Today, the full Senate has a chance to signal its strong approval of this effort once again.

The Department of Interior estimates that the tax revenue is small, roughly $70,000 per year. What is at stake, however, is much more substantial. The U.S. policy of respect and support for treaties with American Indian tribes is an international display of our Nation's commitment to justice and human rights. American Indian treaties should not be subject to further erosion through unilateral reversals of long established principles.

Mr. President, I urge my colleagues to approve this legislation.●

THE NEW G.I. BILL

● Mr. D'AMATO. Mr. President, on Friday, May 8, 1987, the Senate demonstrated its commitment to the education of this Nation's future veterans by passing the new GI Bill Continuation Act. I was pleased to join with 60 of my colleagues in cosponsoring this measure, which extends and makes permanent the educational assistance programs of the new GI bill for members of the All-Volunteer Force and the Selected Reserve.

The new GI bill provides basic educational assistance benefits to service members in return for the completion of a 3-year period of active duty. Typically, the service member receives $300 a month for 36 months, or a total of $10,800 in educational benefits. As a partial contribution to the cost of this benefit, the service member's pay is reduced by $100 per month during the first year of enlistment.

As with past GI bills, the new GI bill has played an important role in providing vocational readjustment for service members upon their return to civilian life. In many cases, the new GI bill has provided the benefits of higher education to those who might not otherwise have been able to afford it.

In addition to providing benefits to individual veterans, the new GI bill yields dividends to our society as a whole. By attracting the highest quality recruits to our military services, the new GI bill enhances the strength of our Nation's All-Volunteer Force. Moreover, the new GI bill bolsters our Nation's economic competitiveness by contributing to a more highly-trained and productive work force. It is estimated that for every dollar spent in GI bill benefits, the Nation is returned $3 to $6 dollars in increased tax revenues.

The young men and women who volunteer from the Armed Forces deserve our thanks and recognition in a way that makes a difference in their lives, as they have more a difference in all

of ours. I am pleased that the Senate has taken this important step.●

SOVIET REFUSENIKS

● Mr. SIMON. Mr. President, the Soviet Union has stated that it is implementing reforms and has indicated a desire to improve relations with our country. Although recent changes in Soviet policy have not been major, there have been visible improvements in the past few weeks. Last year just over 900 people were allowed to emigrate. This year, in April alone, 717 Jews were released. I sincerely hope that this upward trend continues.

We must not be fooled by figures, however. Emigration levels will not be high enough until every single individual who wishes to leave the Soviet Union is permitted to do so. Over 300,000 Jewish citizens are waiting for permission to emigrate. Among these refuseniks is Naum Meiman. Naum is in his seventies, and he recently lost his dear wife Inna.

I urge the Soviet Government to grant Naum Meiman and all other refuseniks permission to emigrate.●

REMOTEC: SMALL BUSINESS SUBCONTRACTOR OF THE YEAR FOR SOUTHEASTERN STATES

● Mr. SASSER. Mr. President, as we celebrate Small Business Week, I would like to bring to the attention of my colleagues the achievements of a rather remarkable firm located in Oak Ridge, TN. This company, Remotec, has been selected the outstanding small business subcontractor for the Southeastern State. Remotec and its president and technical director, John White, are to be congratulated on this achievement.

This award comes in recognition of the progress made by Remotec in the field of robotics. But, I believe the award also recognizes the great strides Remotec has made since its inception.

Remotec was originally established to provide a unique service. Prior to the company's creation there was little to no market for companies which provide services for remote mechanical handling equipment of nuclear materials and other dangerous chemicals. Formed in 1980, Remotec had annual sales that year of some $300,000. By 1986, the company's annual sales were up to $2.5 million. The firm anticipates 1987 sales to jump to $3.5 million. And it is worth noting, Mr. President, that Remotec has reinvested $700,000 of these sales back into internal product development.

It's this kind of devotion to developing high-technology products that are on the cutting edge which distinguish Remotec from many other firms. And I might add, that it is exactly this type of commitment to staying on top of technological developments that we need to see more of.

The particular efforts of Remotec which warranted this particular award center on the firm's development of a survey and inspection robot which is used for inspections in hazardous areas of nuclear plants. This new technology has already been tested at the Brown's Ferry nuclear plant operated by the Tennessee Valley Authority.

I would add that funding for this new technology came in part through the Small Business Innovation and Research Program. My colleagues will recall that this program is designed to stimulate greater small business innovations and technological developments. Companies such as Remotec provide clear evidence that the SBIR Program is doing just that.

Mr. President, I commend John White and the staff at Remotec for this accomplishment. He and his employees can be proud of their achievements. I look forward to great things to come from Remotec in the years ahead and again congratulate the Small Business Subcontractor of the Year for the Southeastern States, Remotec.●

ORLANDO BALDONADO, TENNESSEE SMALL BUSINESS PERSON OF THE YEAR

● Mr. SASSER. Mr. President, I rise to pay tribute today to Orlando Baldonado, Tennessee's Small Business Person of the Year. Mr. Baldonado is the president of EC Corp. located in Oak Ridge, TN. His story of success is a moving one which will serve as inspiration to small business persons not only in Tennessee, but literally around the world.

Mr. Baldonado was born in the Philippines. He was raised on a farm in that island nation. He came to the United States and became an American citizen in 1973. He studied here and earned a Ph.D. in engineering and applied physics at the University of California in Los Angles.

In 1980, Mr. Baldonado started EC Corp. in 1980. What he has done with this company stands as a vivid testimonial of the vitality of America's small business community. When EC Corp. opened its doors, it employed two persons. Through careful management and development by Mr. Baldonado, EC Corp. has grown by leaps and bounds.

By the end of 1986, Mr. Baldonado had some 470 employees at EC Corp. Further evidence of the phenomenal growth of this company can be seen in its expanding base of operations. EC Corp. has offices in six States, the Philippines and the Marshall Islands. And if more were needed to establish the meteoric rise of EC Corp., we need only look at sales. Sales have grown 10,000 percent in the last 7 years to $16 million. That is an incredible record, Mr. President.

The success of EC Corp. does not end with this extraordinary business track record. EC Corp. is a family-run business which rewards its workers. Several members of Mr. Baldonado's family work at EC Corp. And his workers stay with him. Employee turnover is a remarkable 4 percent. This extremely low rate is attributable to several factors; fringe benefits, job flexibility and internal advancement.

Mr. President, I would also like to point out that Mr. Baldonado is very active in community affairs. And I speak from direct experience on this point. A few years ago, I chaired field hearings of the Senate Small Business Committee in Tennessee. We were exploring small business participation in Federal procurement efforts. Mr. Baldonado agreed to appear as a witness at that field hearing and provided us with key insights into this very important issue.

The work product of those field hearings, combined with other hearing efforts led to major procurement legislation. We owe individuals such as Mr. Baldonado a great debt for their contributions to this legislative effort.

Mr. President, Orlando Baldonado has experienced great success in a number of areas. I look forward to an even brighter future for him and EC Corp. I again congratulate him on his selection as Tennessee's Small Business Person of the Year.●

BUDGET SCOREKEEPING REPORT

● Mr. CHILES. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(B) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report also shows that current level spending is under the budget resolution by $3.9 billion in budget authority, but over in outlays by $13.3 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 11, 1987.

Hon. LAWTON CHILES,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1987. The estimated totals of budget authority outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, Senate Concurrent Resolution 120. This report meets the requirements for Senate scorekeeping of

Section 5 of Senate Concurrent Resolution 32 and is current through May 8, 1987. The report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended. At your request this report incorporates the CBO economic and technical estimating assumptions issued on January 2, 1987.

No changes have occurred since the last report.

With best wishes,

Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 100th CONGRESS, 1st SESSION AS OF MAY 8, 1987

[Fiscal Year—in billions of dollars]

	Current level [1]	Budget resolution S. Con. Res. 120	Current level +/− resolution
Budget authority	1,089.5	1,093.4	−3.9
Outlays	1,008.3	995.0	13.3
Revenues	833.9	852.4	−18.5
Debt subject to limit	2,258.3	[2] 2,322.8	−64.5
Direct loan obligations	42.5	34.6	8.0
Guaranteed loan commitments	140.5	100.8	39.8

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,300 billion (Public Law 99–509).

FISCAL YEAR 1987 SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT U.S. SENATE, 100TH CONGRESS, 1ST SESSION AS OF MAY 8, 1987

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			833,855
Permanent appropriations and trust funds	720,451	638,771	
Other appropriations	542,890	554,239	
Offsetting receipts	−185,071	−185,071	
Total enacted in previous sessions	1,078,269	1,007,938	833,855
II. Enacted this session:			
Water Quality Act of 1987 (Public Law 100–4)	−4	−4	
Emergency Supplemental for the Homeless (Public Law 100–6)	−7	−1	
Surface Transportation and Relocation Act (Public Law 100–17)	10,466	−80	2
Technical Corrections to FERS Act (Public Law 100–20)	1	1	
Total enacted this session	10,456	−84	2
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses:			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Special milk	6	3	
Veterans compensation	173		
Readjustment benefits	9		
Federal unemployment benefits and allowances	33	33	
Advances to the unemployment trust funds [2]	(3)	(3)	
Payments to health care trust funds [2]	(224)	(224)	
Family social services	110		
Medical facilities guarantee and loan fund	5	4	
Payment to civil service retirement and disability fund [2]	(33)	(33)	
Coast Guard retired pay	3	3	
Civilian agency pay raises	358	373	

FISCAL YEAR 1987 SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT U.S. SENATE, 100TH CONGRESS, 1ST SESSION AS OF MAY 8, 1987—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Replenishment of disaster relief funds [1]	57	50	
Total entitlements	754	467	
Total current level as of May 8, 1987	1,089,479	1,008,321	833,857
1987 budget resolutions (S. Con. Res. 120)	1,093,350	995,000	852,400
Amount remaining:			
Over budget resolution		13,321	
Under budget resolution	3,871		18,543

[1] Included at request of Senate Budget Committee.

[2] Interfund transactions do not add to budget totals.

Note.—Numbers may not add due to rounding.●

OLDER AMERICANS MONTH

● Mr. CHILES. Mr. President, earlier this body passed my resolution designating May as Older Americans Month. It is during this month that we honor and recognize the continuing contributions and accomplishments of our senior citizens. All too often, we are guilty of concentrating our comments on the problems of senior citizens. In doing this, we sometimes tend to present them as dependent individuals incapable of leading productive and creative lives. While we need to remain cognizant of the hardships many older Americans face in such areas as health care, economic security, housing and social services, it is important to realize that, despite problems in these areas, over 85 percent of all senior citizens continue to lead both independent and productive lives.

I can think of no better way to illustrate this point than by announcing the 1987 electees to the Dr. Nan S. Hutchison Broward Senior Hall of Fame. These exceptional seniors where selected by a committee of community advocates, and are being honored this morning at a commemorative breakfast in Sunrise, FL. Even a brief outline of the accomplishments of these individuals goes far in dispelling the myth of the dependent senior.

Etta Carey, age 79 from Mirimar, has been described as a "constant bundle of benevolence." As a volunteer at the Hepburn Center in Hallandale, along with her regular visits to senior nursing homes, rehabilitation centers and homes to give care and encouragement to seniors, she has accumulated over 17,000 hours of volunteer time serving meals to needy seniors.

As the former mayor of Tamarac, Walter Falck, age 73, has been involved in numerous organizations to benefit his community. He has served on the Areawide Council on Aging for the past 6 years, where he has helped develop many programs for the county's seniors. Walter's vitality and continued participation is the reason why residents of Tamarac consider him a living example that age is not a barrier to activity.

The community of Sunrise can certainly be thankful for having a resident such as Lillian Kirschenberg. At age 62 Lillian has been responsible for raising over $100,000 through her creation of a theatrical group comprised of seniors aged 55 to 80. The money she has raised helped fund over 30 charitable organizations, as well as such services as MediVan, a medical transport which has saved many lives. Lillian's hard work, dedication, talent, and love have certainly earned her a place in this hall of fame.

Marie Maxson, age 69, from Fort Lauderdale, is another worthy entrant. Her own experiences with cancer led her to develop "Reach to Recovery," a support group which offers love, support and caring for breast cancer patients in Broward County. To date, the group has offered this invaluable service to over 650 people, a total which exceeds all other Reach programs throughout the country. Her love and caring has touched countless lives.

Although she is described as a quiet woman, Fannie Meyer, age 78, from Lauderdale Lakes, has been anything but quiet in her approach to helping the needy and the elderly in Broward County. She serves as first vice-president of the Florida Medical Center Auxiliary, an organization which aids patients and their families. Furthermore, she fills her "spare time" by providing services and transportation for homebound and needy neighbors, and giving reassurance to lonely elders over the telephone.

When her husband was struck with Alzheimer's disease, Molly Pollack, age 73, from Deerfield Beach, became a major force in bringing the attention of residents of Broward County to the devastating effects this disease can have on both the victim and the family. She was the motivating force behind the formation of the Northeast Focal Point Senior Center's Alzheimer Task Force Committee, which I am pleased to say has raised over $90,000 to run a daily Alzheimer Day Care Program at the facility. Broward County residents are privileged to count her as a fellow resident.

Also heavily involved in the care of Alzheimer's victims is William Resnick, age 66, from Deerfield Beach. As leader of the Alzheimer's Task Force Committee, he has coordinated more than 14 fundraising events, raising over $87,000. His full-time dedication over the past year has made the Northeast Alzheimer Day Care Center a reality. His love and concern have made the suffering of many Alzheimer's victims much more bearable.

A glance at the accomplishments and busy schedule of Grace Robinson,

age 65, of Lauderdale Lakes, is enough to exhaust the youngest of us. A long time resident of Broward County, Grace is extensively involved in numerous political and community organizations. She has served on the Broward County Democratic Executive Committee, the Northwest Federated Woman's Club Satellite Center, the Florida Consumer Federation Coalition on Voter Registration Drives, and the National Association for the Advancement of Colored People. Her active involvement in such organizations has been of great benefit to her entire community.

Hildegarde Schwartz, age 73, from Fort Lauderdale, is a highly respected and valued participant in a variety of volunteer programs. For 10 years she has served as a member of the board of directors of the Women's League of Voters, and she has also served on the League's State Board. Among her most unique accomplishments was her tenure on the Women's Advisory Board appointed by the sheriff to improve conditions at the Women's Detention Center, where she conducted group counseling with the inmates. Her love and hope have brightened the lives of many, many people.

Joseph Typner, Sr., age 70, from Miramar, has demonstrated a capability to be involved in a good number of simultaneous activities benefiting senior citizens. Joe currently serves on the Advisory Council for the Area Agency on Aging and is assistant State director for the American Association of Retired Persons [AARP]. Among his past activities, he has volunteered at the Jewish Family Services to handle Medicare Information Services, and has served as chairman of the International Year of the Handicapped Committee. The wide variety of his volunteer activities is greatly appreciated by his contemporaries.

These older Americans have proven and are continuing to prove that productivity, creativity, and vitality are not just products of one's youth. I know that all of my colleagues join me in offering heartiest congratulations to each and every one of these outstanding citizens.●

CONGRATULATIONS TO CHILLICOTHE'S SALVATION ARMY IN ITS FIRST 100 YEARS

● Mr. BOND. Mr. President, this year marks the 100th anniversary of the Chillicothe Salvation Army in Chillicothe, MO. It is my pleasure to have this opportunity to add my congratulations to those of the families, friends, and members of this outstanding organization. Since the foundation of this branch in Chillicothe a century ago by Captain Bennett, the Salvation Army has exemplified the accomplishments which can be achieved through hard work and commitment.

The entire community of Chillicothe has benefited immeasurably from the efforts of the soldiers, or members, of the Salvation Army. Only two of these soldiers are paid employees. The rest—over 75 members—are volunteers who donate their time and energy. The American spirit of voluntarism is one of our most precious national resources. This kind of organization is crucial to the continued strength of our country. I salute them for furthering the spirit of altruism and true charity.

This organization has long been held up as a model combination of hard work and vision. Work done on behalf of those in need contributes to the well-being of all our citizens as the positive impact of action ripples throughout the community. One of the most vital services which the Salvation Army offers is the provision of food to the hungry. Church services are conducted each Sunday. Their dedicated work is pledged to the goal of improving the lives of others.

The Chillicothe Salvation Army can be proud of its achievements of 100 years of service in Livingston County in Missouri, and we as Americans share in that pride.

As its members stand poised to enter the new century and new years of service, we wish them continued success and growth. I am proud to commemorate the 100th anniversary of the Chillicothe Salvation Army and to pay tribute to the admirable contribution which its members have made to their community.●

S. 79, THE HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION ACT OF 1987—A PROGRESS REPORT

● Mr. QUAYLE. Mr. President, I would like to take this opportunity to provide my colleagues with a progress report on S. 79, the High Risk Occupational Disease Notification Act of 1987. This bill was introduced by the chairman of the Labor Subcommittee, Senator METZENBAUM, on January 6. After two hearings and two markup sessions, S. 79 was reported out of the Labor Subcommittee on April 28.

This legislation is designed to establish a process for the notification of workers who are considered to be at risk of contracting a disease as a result of their exposure to a hazardous substance or physical agent.

As originally introduced, I felt that the original bill was seriously flawed in many respects. In particular, I faulted S. 79 because of its inadequate scientific and medical basis for notification and its enormous liability potential. I also had very serious concerns about the procedural safeguards in the bill and its job discrimination and medical retention provisions. Finally, I have had a number of significant questions about many of the practical aspects of implementing this legislation.

While I believe much progress has been made in addressing these specific concerns, they have not yet been completely resolved.

I have devoted a great deal of time and energy to this legislation. It is an extremely complex and technical subject. Therefore, I think it would be useful for my colleagues and their staffs to have very detailed information about it so they may gain a realistic understanding of this legislation. That is the purpose of this report. Unfortunately, due to the complexity of the subject, it is virtually impossible to provide this information in abbreviated form.

This report will specifically discuss the following:

I. Background Information re: The History of Occupational Disease Notification;

II. Analysis of S. 79 as Introduced;

III. Revised Version of S. 79;

IV. Improvements Still Needed.

First, let me emphasize that I believe S. 79 establishes a very important principle—that when the Federal Government has knowledge that is relevant to the health of an individual, it is the Government's moral obligation to provide the individual with this information.

However, if the Congress decides to pass notification legislation—which I think it will—it is incumbent upon the Congress to be responsible about where, when, and how to notify people that they are at risk of contracting a disease. We should not enact legislation that will, in essence, put the Federal Government in the position of yelling "fire" in a crowded theater.

I. BACKGROUND INFORMATION RE: THE HISTORY OF OCCUPATIONAL DISEASE NOTIFICATION LEGISLATION

The issue of worker notification arose about a decade ago in the context of a controversy over whether the National Institute for Occupational Safety and Health [NIOSH] ought to provide individual notification to workers found, through its retrospective cohort mortality studies,[1] to be at

[1] Retrospective cohort mortality studies are epidemiological record studies which involve a review and linkage of various personnel, tax and Social Security records with mortality and medical records. Essentially, these are statistical epidemiologic studies in which all available data on the research topic is analyzed.

Information is then developed about the trends and potential risk factors for groups of workers. This information is of particular interest to the individuals studied when they face an increased risk of disease, particularly when the disease has an extended latency period and would benefit from early detection and treatment.

These studies rarely involve direct contact with the individuals studies nor any knowledge on their part that they are the subjects of the study. While research results of such studies are frequently published and made available to unions and employers, it has not been the general practice of epidemiologists to notify the subjects of the studies' results.

increased risk of disease as a result of their exposure to an occupational hazard.

Discussion concerning notification and under what conditions and circumstances it should be done has raised a series of very complex and technical scientific, medical, ethical and legal questions. These questions can be summarized as follows:

The scientific basis for the determination of risk for study subjects;

The scientific validity of extrapolation of risk data beyond the population of studied subjects;

Whether notification should only take place when successful medical intervention is considered feasible;

Who should make the decision to notify and how the decision to notify or not to notify should be made;

Who should be responsible for the notification;

What the appropriate form of the notification is, that is whether it should be made to the employer, the individual worker, the public at large;

What the appropriate content of the notice is, that is what medical information should the notice include;

Who should be obligated for the cost of the medical monitoring of notified workers;

Whether a disease notification program should affect liability and workers compensation issues; and

Whether job discrimination and retention issues should be addressed in a disease notification program.

I believe that these questions are legitimate, but they are questions for which there are no easy and simplistic answers. Legislation on this subject must carefully consider and address these questions.

II. ANALYSIS OF S. 79 AS INTRODUCED

Despite my agreement with the basic principle of S. 79, I found the bill, as originally introduced, to be very seriously flawed. In particular, I faulted S. 79 for its inadequate medical and scientific basis for notification, its virtually unprecedented liability potential and its enormous technical and implementation problems.

To be more specific about my concerns with the original version of S. 79:

INADEQUATE MEDICAL AND SCIENTIFIC BASIS

The bill creates a new entity within the Department of Health and Human Services [HHS] called the Risk Assessment Board. The Board, to be composed of five Public Health Service employees appointed by the Secretary of HHS, is charged with identifying and designating populations of present and former workers who are at increased risk of disease because of occupational exposures.

A "population at risk" is defined as an employee population exposed to an "occupational health hazard," which in turn is broadly defined as just about any hazard found in the workplace for which a single scientific study shows that acute or chronic health effects may occur in employees exposed for "intensities or for durations" comparable to the one study.

My specific concern is that S. 79 requires notification by the Risk Assessment Board that could be based on scientific evidence which may not be valid and which may not establish any real link between a particular substance and the occurrence of a disease in humans.

For example, under the criteria specified in the bill, a human population at risk could be designated by the Board on the basis of a single animal or single laboratory study. If the animal or laboratory study showed that a substance may cause acute or chronic health effects in humans who also have been exposed to the substance at intensities or for durations comparable to those in the study, then the Board could determine that notice should be given. In other words, laboratory rats could be directly equated to humans for purposes of triggering a notification.

There is no requirement in the bill that risk determinations be based on human studies. Neither is there a requirement that the population at risk be limited only to those persons who are exposed for intensities and durations of exposure that clearly establish a human risk. There is also no requirement that potential nonworkplace exposures, that is, cigarette smoking, be examined in determining a population at risk.

Compounding the bill's scientific inadequacies is its requirement that the Risk Assessment Board identify not less than 100,000 employees each year in a population at risk, with the goal of notifying not less than 300,000. Such arbitrary quotas have no scientific basis and are completely unrelated to the results of the Board's risk assessments.

As a practical matter, the pressure to meet such quotas cannot help but force the Board to give something less than careful consideration to all relevant factors in making a risk determination, should reaching the quota be in doubt. Such a quota system could lead a bureaucracy to lean toward the unjustified notification of workers.

LIABILITY POTENTIAL

While S. 79 makes a modest effort to curb the liability any notification bill is bound to generate, it is not sufficient. We need to look at the types of claims such legislation could generate and do our best to make the bill tort-neutral. The following is a review of the types of claims that could be generated by the bill:

1. Tort and workers' compensation claims where an employee would assert that he or she "worries" or suffers "severe emotional upset" because he or she might have an illness or disease. A number of states now permit claims of this type even though there is no showing of physical illness or manifestation of such illness. Workers could claim that they were worried that the "risk" could manifest itself in a serious illness.

2. Tort claims by employees against employers under a newly created exception to the normal workers' compensation "immunity shield". These claims are predicated on the theory that an employer failed to disclose important health information to his employee. Some courts have interpreted worker compensation immunity shield statutes as creating an exception for "intentional" wrong-doing to employees in this type of situation. Attorneys for employees could almost always assert that employers knew of the risk prior to the mandated notification.

3. Tort claims brought on the basis that a named hazard or product caused a specific illness. These claims are likely to arise even when there is no solid scientific connection between a substance or process and a harm. Unfortunately, a growing number of courts are using very attenuated causation principles in product liability cases. Current experience shows that many such cases have been settled for substantial amounts of money even though there is no objective proof that a particular substance or process could actually harm a human being.

MEDICAL REMOVAL PROTECTION

S. 79 requires employers to provide or make available medical testing, monitoring and evaluation to notified employees whether or not they were exposed to the hazard while in their employment. In cases where the employee was exposed to the hazard while in their current job, the employer would have to pay for such services. In other cases, he would either have to provide medical monitoring, testing and evaluation or make these services available to the employee.

If an employee's physician determines that an employee should be transferred to a less hazardous job, the employer must transfer the employee to another job and maintain the earnings, seniority and employment rights and benefits of the job vacated.

If an employee's physician determines that an employee should be transferred to a "less hazardous" or nonexposed job because the employee has received notice, the employer must maintain the employee's earnings, seniority, and other employment rights and benefits as if the employee had not been transferred. This protection is available indefinitely in the case of an actual transfer, and for a minimum of 12 months where another job is available.

Let's put ourselves in the place of the employee's physician. The doctor is in receipt of a Government notice that the employee is at risk from a substance in the workplace, and the employee asks if he or she should be removed to a nonexposed job. The physician has only one answer: "Of course." My guess is that the physician's lawyer would tell him or her to give that answer even if the doctor

wasn't inclined to. I think we need a different standard to trigger this removal protection—a standard that will limit it to some objective criterion.

III. REVISED VERSION OF S. 79

Prior to the first subcommittee markup on S. 79, Senator METZENBAUM circulated a substantially revised version of his bill that addressed a number of important problems in the original draft, particularly in the science area. I think the Senator from Ohio made some very significant improvements in the bill, and I certainly commend him for his efforts.

However, these revisions were not sufficient to alleviate all my concerns about the bill, and I am pleased that at the two subsequent Labor Subcommittee markup sessions, a substantial number of additional amendments I offered were accepted.

My amendments to the bill were based on two key principles, which I believe should be the essence of any notification legislation:

First, notification is appropriate and should take place when there is a reasonable scientific and medical basis for it; and

Second, a disease notification program should not serve as the basis for establishing the liability of an employer for an occupational health hazard; nor should it have any bearing on tort or workmans' compensation claims for harm resulting from an occupational health hazard.

To review the contents of my amendments briefly, they would:

Eliminate the 300,000 annual notification quota. To retain this arbitrary provision would undermine the scientific basis on which notification should be based, particularly since the purpose of the bill is only to notify those workers who are truly at risk.

Revise the definition of the term "medical monitoring" to clarify that its purpose is to provide for diagnostic tests and examinations for the disease that is the subject of the notice. I think this change successfully clarifies that it is not the intent of the bill to mandate employer liability for full-scale annual physicals.

Revise the job discrimination provisions that prohibited an employer from discriminating against an applicant for employment because he or she is a member of an at risk population. My amendment provides an exception for an applicant who is a member of a population at risk or who had prior exposure to a hazard to which the applicant would be exposed as an employee. An employer should not be required to put an employee into a situation that will be hazardous to that employee's health. Without this exception, employers would be put into the untenable position of either violating the nondiscrimination provision or exposing the employee to further hazard.

Require that an employer provide the medical removal protections in the bill only if any part of the employees' exposure to the occupational health hazard occurred in the course of their employment by that employer. In addition, an employer would be required to provide medical removal protection only for employees who: receive individual notification under this Act; or who the employer knows or has reason to know are members of the population at risk as determined by the Board.

Revise the provisions relating to the obligations of employers either to pay for or provide medical monitoring. These provisions originally imposed obligations upon an employer for the medical monitoring of exposed employees regardless of whether the exposure occurred during the course of their employment with that employer.

More specifically, my amendment would:

Eliminate the obligation of the employer if none of the exposure occurred in the course of the employee's employment with that employer.

Specify that an employer shall be required to provide monitoring for only those employees: who have been individually notified pursuant to this Act; or who the employer knows or has reason to know are members of a population at risk.

Clarify that, if medical monitoring is a covered benefit under the employer's health plan, the employee may be liable for the deductibles and copayments generally required under that plan.

Provide both the employer and the employee with important due process rights by giving each reasonable opportunities to challenge both incorrect notifications and decisions not to notify. This amendment would enable an employer to challenge the validity of a notification to a specific employee, and also permit the individual employee the opportunity to prove that he or she should have been notified.

Clarify the duties of the Risk Assessment Board as they relate to medical monitoring. S. 79 requires the Board to determine the appropriate "type of beneficial monitoring or health counseling" for the disease associated with the risk. My amendment clarifies that the Board is responsible for determining the appropriate type of medical monitoring, if any, or beneficial health counseling, for the disease in question. I did not think that the phrase "beneficial health monitoring" made sense if we all agree that the sole purpose of medical monitoring is diagnostic.

Require that the notice sent to the employee deemed to be at risk also include information about the extent of that individual's risk compared with that of the population as a whole. I feel this is important information for the notified employee to have in order to permit him or her to better assess his own situation.

Provide that employers who choose to assume the notification responsibilities themselves will be able to have a choice of taking on this task for different populations of their employees. For instance, notifying current workers will probably be a simple task for many employers, but notifying their former workers may be more than they could handle.

Eliminate the goal stated in the bill of certifying one health center in every state. I think we would all agree that these centers should be located where they are the most needed. I found it hard to believe that a state such as Vermont would need health centers as badly as a considerably larger and more industrialized state like New York.

Revise the basis for the selection of certified health centers. S. 79 limited HHS selection of these centers to facilities which are able to provide necessary resources in an "ethical manner." My amendment deleted the use of the term ethical. I do not feel that such a value laden word belongs in statute. In addition, my amendment requires that such centers be located for geographical proximity to designated at risk populations.

Clarify that the provisions requiring Federal agencies conducting epidemiologic studies on occupational disease to notify the subjects of the studies of the study results to not trigger the medical monitoring and employee protection provisions of the bill.

Clarify that the term "current employer" means the employer at the time the notice was issued.

Make a number of important technical and clarifying changes in the bill by: permitting the Risk Assessment Board to extend, for "good cause shown," the time period between issuance of the notice of determination that a population is at risk and the issuance of the final determination; and requiring the Board to consider the extent to which particular populations would benefit from notification.

Make the contents of the proposed notification subject to comment.

Specify that an individual adversely affected or aggrieved by a determination of the Board is entitled to seek judicial review. A person may claim to have been adversely affected or aggreived by Board determinations that: an agent or process is or is not an occupational health hazard; the class or category of employees is a population at risk of disease; constitute inappropriate medical monitoring or health counseling.

Ensure that the Risk Assessment Board receives the best scientific advice available by authorizing it to appoint a scientific expert or panel of experts in making its determinations of "at risk" populations.

Revise the new research, training and education functions that the bill would assign to the National Institute on Occupational Safety and Health (NIOSH) to make them more appropriate to the Institute's mission and expertise.

IV. IMPROVEMENTS STILL NEEDED

Despite the progress that has been made in improving many aspects of S. 79, I strongly believe further changes in the bill are necessary. While I still have quite a few remaining concerns, the most significant of these relate to: the bill's scientific basis for notification; the bill's provisions granting the Risk Assessment Board complete independence from the Secretary of Health and Human Services; the importance of a tort neutral measure; and the actual workability of the bill.

I strongly urge my colleagues to refrain from cosponsoring the legislation until these very important problems have been resolved.

To elaborate on my outstanding concerns:

SCIENTIFIC BASIS FOR NOTIFICATION

I believe it is critical that more generally accepted scientific principles be incorporated into the notification decisionmaking process by:

First. Revising the definition of an "occupational health hazard."

This definition is based in large part on the OSHA hazard communication standard [HCS]. The HCS was designed as a broad effort to require employers to communicate information concerning all the potential hazards

associated with a chemical. This definition also includes the complete universe of chemicals from those that are carcinogens to those that are merely irritants. Although such a standard makes sense for triggering appropriate handling and precautions, it is not appropriate for triggering notification to employees that an actual risk of disease is present.

I think one of the biggest mistakes that has been made in the discussion of this legislation has been the persistent confusion between what constitutes a risk and what constitutes a hazard. To take an example, arsenic is a hazard. People need to know how to handle it so that it doesn't become a risk to them.

It is important that the definition of an "occupational health hazard" be revised to clarify this distinction and to ensure that notification would be triggered only when there is a statistically significant relationship between exposure to the hazard and consequent health effects.

I believe that the definition of an "occupational health hazard," even as revised by the chairman's amendment at the April 28 subcommittee markup makes no sense, and I intend to pursue my amendment in this area.[2]

Second. Tightening the scientific factors upon which determinations of risk are based. The bill consistently requires that the Risk Assessment Board consider a number of factors which may be a causal factor in the etiology of illness or disease in making their determinations to notify. Putting such a speculative, open-ended standard in statute simply cannot be justified on the basis of sound science. These provisions should be modified to ensure that the Board bases its decisions to notify on a less speculative standard.

Third. Incorporating more generally accepted scientific principles into the definition of a "population at risk." S. 79 defines a "population at risk of disease" as employees exposed to an occupational health hazard under working conditions such as "concentrations or durations" of exposure similar to those in studied populations. Again, this would establish a highly speculative standard for notification. This definition needs to be revised to ensure that scientific data are not used inappropriately. As currently drafted, the bill's definition of "population at risk" could result in incorrectly notifying individuals with low exposures, or short durations of exposures, that they are at risk of disease.

LACK OF ACCOUNTABILITY

I believe that the provisions of S. 79 relating to both the decisionmaking process and the decisionmaking authority for determining "populations at risk of disease" are fundamentally at odds with our basic system of Government.

S. 79 gives final decisionmaking authority to the Risk Assessment Board on determinations of "at risk" populations. The Board is located in the Department of Health and Human Services, but is effectively independent of it. The Secretary appoints the Board to fixed terms but has no review or influence over its decisions.

That is bad Government. We elect a President and confirm members of the Cabinet and other high-level officials. This subordinate body has no political accountability and is not answerable to anyone with such responsibility.

Presumably, the argument for the Board's independence is that we want to insulate these scientific decisions from politics. But let us not fool ourselves. Scientific decisions have policy implications; we live in a democracy and not in a technocracy. We need a decisionmaking process that is both scientifically sound and responsive to policy issues. I have proposed—and I intend to continue proposing—revisions to S. 79 that do exactly that.

My revisions retain all the expertise that S. 79 would for the Board—including its method of selection from panels recommended by the National Academy of Sciences—but make the Board's determinations the beginning of a rule-making process of the Secretary of HHS. It restores the element of political accountability that is a fundamental part of our system of Government.

Interestingly enough, there was a similar debate during the enactment of OSHA. At that time, Republicans argued for an independent board, and Democrats supported placing power in the Secretary. But the Republicans argued for a Board that was appointed by the President and confirmed by the Senate. The Board would thus have had an appropriate degree of responsibility. Nobody argued for a technocratic body ensconced in the middle of the bureaucracy with no political accountability whatsoever.

S. 79 provides that a hearing on a proposed determination will be held before the Risk Assessment Board and that its decision is final—subject to judicial review.

My revisions provide that a hearing on a proposed determination will be held in accordance with the formal rule-making procedures of the Administrative Procedures Act, with the Board's proposal and its supporting documentation furnishing part of the record. Thus, these revisions would ensure both scientific responsibility and political accountability.

LIABILITY POTENTIAL

Given the litigious society in which we live, I believe it is unrealistic to think that a disease notification program will not generate an increase in liability claims.

One only has to look at the limited experience with notification to understand the importance of this. In 1979, a pilot notification project NIOSH undertook for bladder cancer because of exposure to the chemical betanapthylamine [BNA] resulted in the notification of 849 individuals and $300 million worth of lawsuits against the companies involved. It is noteworthy that many of these lawsuits were filed by individuals with no evidence of bladder cancer but who did manifest symptoms of other diseases which they now claimed were linked to their exposure to BNA.

While I do not believe that it is possible to prevent this legislation from generating claims under both tort and workers' compensation law, I do believe it is incumbent upon the Congress to ensure that this legislation is tort-neutral.

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[2] The definition of "occupational health hazard" now reads: "a chemical . . . for which there is statistically significant evidence . . . that chronic health effects have occurred in exposed employees." Under my amendment, the definition would read, "for which there is statistically significant evidence *to demonstrate* . . . that chronic health effects have occurred in exposed employees *in connection with such exposure.*" (new language underlined)

Statistics to quote the Encyclopedia Britannica, is the "art and science of gathering, analyzing, and making inferences from data." Statistical significance means no more than that the inference has a certain degree of probability. Under the definition no inference is required. The operative principle is that chronic health hazards have occurred in exposed employees.

But that fact alone has no significance, statistical or otherwise. Webster defines significance as "having or expressing a meaning." The mere fact that 50 cases of a chronic health hazard have occurred in exposed employees has no significance; it expresses a meaning only if the health hazard can be related to the exposure through statistical or other relevant scientific means. Without my amendment, which requires such a relationship, the definition is, in the words of the poet Milton, one of those "empty sentences that have . . . the significance of nothing pertinent."

Let me cite a concrete example to show the difference between the definition with, and without, my amendment. Kenneth R. Foster's article, "The VDT Debate" (74 *American Scientist* pp. 163-168, March-April, 1986) reports on clusters of birth defects occurring in children of mothers exposed to video display terminals (VDTs). Under the definition as proposed by the Chairman, the test would be whether there is statistically significant evidence that the health effect occurred in exposed employees—and there is no question that such effects did occur in the considerable number of instances cited in that article. Accordingly, VDTs would meet the definition of occupational health hazard under the definition without my amendment.

But, as the article also demonstrates, the fact that these clusters exist is no evidence that there is a causal relation between the birth defects and the exposure. The author states that "an epidemiologist would consider the reported clusters to be provocative, but inadequate to *demonstrate any connection between reproductive problems and VDTs.*" (emphasis added) It is that connection which is required by my amendment. While the statistical analysis in the article is complex, it is clear to me that under the definition in the revised version of S. 79, the mere occurrence of a number of cases would meet the definition of a hazard; under my amendment, there would have to be statistically significant evidence connecting the health effect to the exposure. As such a connection is not found in these studies of VDT effects, the adoption of my amendment is critical to a responsible solution.

I think that all Members of Congress are well aware that our legal system is in serious difficulty due to the proliferation of liability claims in recent years. I think we are all very aware of what impact this has had on the ability of businesses to obtain liability insurance and on the cost of that insurance.

Commercial liability premiums alone rose 72 percent in 1984-85. I think it is safe to say that, last year, this was one of the top issues our constituents wrote and talked to us about. I believe most of my colleagues would agree that it would be unsound public policy to pass legislation opening the door to new and unfounded claims on the system. While I certainly commend Senator METZENBAUM's efforts to address this problem, I believe that the language I have proposed will be more effective in making this legislation tort-neutral.

MEDICAL REMOVAL/JOB RETENTION PROVISIONS

While some progress has been made in addressing these issues, considerable revision of these provisions is still necessary.

As I noted earlier, the medical removal provisions need to be revised to establish an objective standar ' which would trigger a medical removal.

In addition, the job retention provisions are inequitable. Job transfers with benefit and salary retention would be required where a nonexposed job was available. However, where one was not available, the employer would be required to provide the employee with salary and benefits for a 12-month period. Thus, employees who are unable to transfer due to the lack of a suitable job receive income protection for a year, while those who are able to obtain a transferee position receive income protection forever. A more equitable solution needs to be found to address this problem.

IMPACT ON SMALL BUSINESSES

I do not think that the impact of this legislation on our Nation's small businesses has been adequately discussed. I simply do not think it is realistic to expect that small businesses will be able to absorb the employer costs this bill will impose. While I do not believe it would be appropriate to exempt small business employees from notification, I do not think that the Congress can in good conscience require small businesses to provide the costly benefits section 9 of the bill would entail. Therefore, I intend to propose an amendment that would address this issue.

WORKABILITY OF THE BILL

As my staff and Senator METZENBAUM's staff have discussed, the actual mechanics of the bill, its complexities, have become apparent to both sides. One subject that has been under much discussion has been the actual contents of a determination by the Risk Assessment Board that a population is at risk.

The bill provides that a population would be found to be at risk of disease when a class or category of employees had been exposed to an occupational health hazard under working conditions—such as concentrations or durations, or both—comparable to evidence indicating that chronic health effects may occur. I think it is relatively straightforward what a determination would say when very specific information relating to both concentrations and durations of exposure is available.

However, questions arise as to what constitutes comparable working conditions when information about either specific concentration or duration is not available. Will all employees who could have been exposed to a particular substance be notified? Will notification take place on an industry-specific or a plant-specific basis?

In an attempt to resolve these questions, my staff asked the major business groups supporting S. 79, the Chemical Manufacturers' Association [CMA] and the American Electronics Association [AEA], to prepare an example of a determination that might be triggered by an actual occupational health hazard.

I was somewhat surprised that this information was not readily available from these groups. However, I must note that I was really astonished by the reply I received from the American Electronics Association. To quote the AEA's response directly: "Because we are unaware of any exposures in the electronics industry that would trigger a notification, we are unable to provide you with a sample."

Besides the obvious question such a response raises about the value of the support of a group for a bill that regards itself as unaffected by it, I would hope that we will receive more useful replies than this to assist us in formulating such an important part of this legislation.

Another area that I believe requires further thought relates to one of the most fundamental objections to occupational disease risk notification: that recipients will be unduly frightened because notifications will be sent to many individuals who may never contract the disease. This fear is usually voiced by concern that if the risk of disease is 5 per thousand, 995 individuals who will never contract the disease will receive a letter which will cause them great anxiety.

The obvious response to this argument lies in the appropriate composition of the notices. I think it is critical that the notices be appropriately drafted so they will help and not just frighten their recipients. I believe it is important for Members of Congress to have a good idea about the types of notification letters our constituents will be receiving as a result of this legislation.

To resolve these two key concerns, my staff has sent formal requests for sample determinations and notices to the AFL-CIO, the Chemical Manufacturers Association, Crum & Foster Insurance Co., General Electric, IBM, the American Cancer Society, Dr. Philip Landrigan, and Digital Equipment Corp.●

AFGHANISTAN: LETTERS FROM THE STATE OF MONTANA

● Mr. HUMPHREY. Mr. President, last December the brutal Soviet occupation of Afghanistan entered its eighth year. The horrible condition of human rights in Afghanistan was recently described in a U.N. report as: "A situation approaching genocide."

As chairman of the Congressional Task Force on Afghanistan, I have received thousands of letters from Americans across the Nation who are outraged at the senseless atrocities being committed today in Afghanistan. Many of these letters are from Americans who are shocked at this Nation's relative silence about the genocide taking place in Afghanistan.

In the weeks and months ahead, I plan to share some of these letters with my colleagues. I will insert into the RECORD two letters each day from various States in the Nation. Today, I submit two letters from the State of Montana and ask that they be printed in the RECORD.

The letters follow:

BILLINGS, MT.

DEAR MR. HUMPHREY: I want to voice my protest of the Soviet presence in Afghanistan. I, as an individual, with no power or monetary means to stop such inhuman behavior, have only the hope that my voice will be combined with millions of others, who like myself, cannot let this issue slide by without speaking out.

Sincerely,

TONI S. TIKALSKY.

BILLINGS, MT.

DEAR SENATOR HUMPHREY: I read about the atrocities happening in Afghanistan. What can we as ordinary citizens do to stop this?

Please continue to do all you can to get this stopped.

Sincerely,

KAREN COX.●

GENE THOMAS

● Mr. SYMMS. Mr. President, one of Idaho's most distinguished citizens is Eugene Thomas of Boise, ID. Currently Gene Thomas is serving as president of the American Bar Association and I am proud to count him as a personal friend as well as an outstanding representative of my State.

There are few people who attain such levels of civic leadership. But it is no surprise that Gene Thomas has risen to the top of his profession. It is

almost as if he has been destined to do so from the beginning.

The current issue of Boise magazine contains an excellent article outlining many of Gene Thomas' impressive accomplishments during his career. In reading this article, one becomes readily aware of why Gene Thomas has been unanimously elected by his peers in the legal profession to lead their national body which has such worldwide respect.

I am honored to share this article with my colleagues and fellow citizens. I ask that the entire Boise magazine article be entered into the RECORD.

The article follows:

EUGENE THOMAS

(By Larry Munden)

Eugene Thomas is certainly one of the few Boiseans who can legitimately claim an international forum for his ideas and accomplishments. As President of the American Bar Association, Thomas is clearly at the zenith of his profession. In talking with him, it is not difficult to understand why. He speaks of the legal profession as a virtual calling rather than a mere profession. Thomas also defines his profession and its role in the judicial branch of government as a critical ingredient in our American way of life, as part and parcel of the responsibility for public service in a democracy. He voices his determination to play an active role in seeing that the legal profession lives up to that responsibility in accordance with the highest possible standards.

An Idaho native who became interested in law at a very young age, Thomas attended Columbia University and the Columbia School of Law, graduating in 1954 and returning to Idaho to be licensed as an attorney that same year. He was elected Ada County Prosecutor in 1955, and served a two-year term before choosing to enter private practice. He was a founder and is currently Chairman and Chief Executive of the law firm of Moffatt, Thomas, Barrett & Blanton. He became active in the Bar Association very early in his career, and was President of the Boise Bar Association in 1962-1963. His rise in the legal profession has been steady—and seemingly inevitable—since that time.

If anyone can be said to have "paid their dues" on the way to the top of their profession, it would be Eugene Thomas. He was elected to the presidency of the Idaho State Bar in 1971, and has been a member of the House of Delegates of the American Bar Association ever since that time. He has served on an extremely wide variety of committees in both the state and national Bar Associations. A listing of those assignments could take up a major portion of this article, but some of the highlights include serving as Chairman of the Steering Committee on the Public Education Division of the ABA and of the Audit Committee of its Board of Governors. He was selected as Chairman of the House of Delegates of the ABA from 1980 to 1982, and served on the association's Board of Governors during that same period.

His election to the presidency of the American Bar Association seems a very logical outcome of his very active career within the legal profession, but—more importantly—it also reflects his status within the profession. Eugene Thomas speaks as someone who is proud of his profession, sure of his place within it, and sure of the profession's role in our society.

Thomas tends to place issues related to the legal profession within the larger context of what is happening in our society as a whole. While he sees the legal profession as being a very important part of our society, he certainly does not see it as being removed from or unaffected by what goes on in the other segments of American life. And he is most certainly no apologist for the profession. His views are both definite and positive. Although he does not deny that there are problems in the profession—particularly in regard to its image—he obviously prefers to talk about what is right with it. Given his viewpoint and his accomplishments, it is difficult to disagree that there are many positive things about the legal profession in America—or to deny that Thomas is a very able spokesman for his chosen calling.

In addition to his very active role with the Bar Association. Eugene Thomas has also been very active in other professional associations as well as in the Boise community. He is a member of the Association of Trial Lawyers of America, the Defense Research Institute, and the International Association of Insurance Counsel. Locally, he has served as President of the Chamber of Commerce, as Chairman of the Mayor's Select Committee on Downtown Development in 1982-1983, as a Director of St. Luke's Regional Medical Center and the Mountain States Tumor Institute from 1963 to the present, and as a Trustee of the College of Idaho from 1980-1985.

These, of course, are merely the highlights of a highly active and distinguished career. Eugene Thomas is an outstanding citizen of Boise, but—far more than that—he is an individual of international stature who represents the American legal system at its finest.

You're obviously very much at the top of your profession now, as President of the American Bar Association. Is that a goal you set for yourself?

No, it is not a goal that I set for myself. I am interested in being President of the American Bar Association for a lot of reasons, but never has it been an aspiration to be at the pinnacle of the profession. It is really more of an interest that I've always had in trying to improve the delivery system of legal services in America.

It has always seemed to me that the law is a unique opportunity for a person who is interested in making America work, which the law is focused upon. From the time that I was admitted to the Bar, I became interested in the fact that we need to improve the delivery system of services both for the sake of the practicing lawyer and his clients on the one hand, but also for the aspirational goals that I have already mentioned.

America just won't work without an effective delivery system for legal services for all people.

It must be an interesting time to hold your position with this being the Bicentennial of the Constitution.

It really is. The focus on the Constitution has generated an awareness in America that probably has never existed before. People are more conscious of the law, they are conscious of the fact that America is different because of a Constitution that makes life better here than it is elsewhere, that there are freedoms and there's stability.

I think that the other thing that Americans are beginning to realize is that our forefathers in creating the Constitution, did one of the most extraordinary things that any group of people have ever done for a nation. Three years after we recognized the Treaty of Paris and became a sovereign nation of the world, our forefathers went back to the drafting board, went back to square one, and said. "Now let's do it right, let's create a Constitution."

They did that in the spring of the year, two hundred years ago in Philadelphia. They met in the spring and then again in the late summer and they had the job done. In between, they had gone out to the thirteen states and had gained support for ratification. They not only created a document the likes of which has never been seen before or since, but they did it with such dispatch. That's something that today the finest minds, the finest leaders and lawyers in America, frankly couldn't do in ten times as many months.

Do you think that people understand the difficulty of that process?

Whether they understand it or not, it makes Americans realize that they are indeed the product of a phenomena of human performance at its best. It is something that has never been equalled. Now we are seeing that around the world certain countries—the Philippines, Brazil, certain countries in Africa and Asia—are attempting to use our role model. It is an inspiration and hope for other people.

I think that we should all remember the words of Thomas Paine when he said that "In America we have no Monarch. In America the Law is King." That means that for each of us the law is fairly dispatched and evenly administered, it isn't some despot. That's a pretty inspiring thing for us all, and it is a very fine year to be President of the ABA because it has the people of this country thinking about the law.

What is the impact of this on the legal profession?

You know that we've had a lot of black eyes in our profession as people have been angry. Lawyers take unpopular cases and frequently the unpopularity slurs over to the lawyer. People have resented, for example, death-row litigation by lawyers who have had the job of representing the most unpopular of our people. We have had tasks in mass disaster circumstances in which people have been hurt. The public has been exasperated and has lashed out against lawyers as though there were almost something worse about the lawyers than there was about the disaster. We've had problems with the image of the profession as people have sometimes thought that we were greedy.

I think this Bicentennial has given us an opportunity to show that this profession is public-service oriented, that it is aspirational in a way that I don't think you can find many that are.

People are focused on Tort Law right now and they are exasperated as I encounter them around the country, because of their anger over insurance costs and things like that. They're not happy about crime in the streets and they're not happy about their tax bills for new prisons, but I find a high level of expertise and knowledge in many Americans as we talk about these things. I trace it to their awareness because of the focus on the Bicentennial.

You've touched on a number of things. In regard to Tort Law, do you see major changes forthcoming?

Oh, yes. I think major changes will be forthcoming out of the profession, out of the courts, and out of the legislatures all around the country—and I think it's going to evolve over a reasonably short time-

frame. We're re-examining a lot of our values.

In what way?

We're considering the use of the public power, the power politic of the people, to enforce standards of resolution on people who have disputes. In other words, many of these debates that are going on concern joint and several liability. They concern whether you ought to recover large amounts. What kinds of evidence should be admissible? Should people be trying these cases as though there are always insurance companies on the other side (which is present in the mindset of most juries)? Have we written our laws in the past twenty to twenty-five years to encourage litigation too much, to make victory too easy, to make awards too large? Those are the questions that we're seeing.

And these are the issues that have to be resolved?

The more profound question is not the one that has been articulated, it is this: Have we taken a structure designed to handle a small kind of problem, say a telephone line, and run a huge problem down it? For example, a bolt of lightning? Has the system been designed for one thing, and then given something else to carry? Take the Texaco case, for example, a $13-billion case being decided in a court in Texas. Did we ever design a jury system in a county in Texas with the idea that they would decide whether Texaco would be given to somebody else? I submit to you that no one had that in mind. Now, did the system carry it? Did the telephone line carry the bolt of lightning? That's another question.

There is a public perception that it is the legal profession and, in part, advertising, that is encouraging litigation. How do you respond to that?

Advertising does encourage litigation, because advertising informs people of rules of law that may apply to them and informs people of rights they might have. To the extent that that's what advertising does, I applaud it. To the extent however, that it's misleading people in any way, or to the extent that it is making lawyers look better than they are, or to the extent that it is attracting people to them because of the kinds of things that lead you to a used car salesman, I abhor it.

We have fought in the Supreme Court twice and every way we could against ordinary advertising by lawyers, because we have felt that it was not dignified or suitable. We think the proper role for the profession is to help people understand the law, and we think people should try to resolve their disputes with litigation as a last resort—not a first resort. That has been the professonal posture all along. Under Constitutional decisions, however, First Amendment principles, we have been forced to stand back and advertising of the sort you reference has gone forward. I think that that is unfortunate.

How much of a problem is that?

I do not think that it is the cause of the problem that the public is mad about. The public is angry about the fact that there are more and more expensive, time-consuming courses of litigation and that they're generating inconveniences for us in the insurance field and frankly as jurors and witnesses and it has just made life a little more threatening. I would have to tell you that the legislatures of the states, contrary to public impression, are not peopled by lawyers and they're not led by lawyers. They're led by ordinary people; it's been decades since lawyers were the dominant numbers in state legislatures. Take Idaho, for example. We have very few lawyers in the legislature here.

The people themselves have wanted more victories. There was a time, not many years ago, when we couldn't remember anybody winning a medical malpractice case, you couldn't remember anybody succeeding in a suit against an automobile manufacturer. People just didn't win cases against landlords or you could not recover if you fell and hurt yourself in a store. You didn't win those cases and they weren't good cases.

But people decided in legislatures and in courts and in juries—and, remember, the juries aren't lawyers—that there should be more adequate awards and more frequent awards and so, as is typical when we get really furious with things, it turns out that we demand it ourselves. We the people did that, the lawyers didn't. The people decided that there should be more plaintiff victories, and that's part of the tort frustration, and that's what has led to the insurance problem.

I think that the people ought to realize that the insurance companies really stayed out of that, because as far as they were concerned it was kind of like a fella who's got an orange grove outside of town and he looks in and says, "Hey, everybody's going crazy over orange juice." He doesn't run in and say "stop;" he stands back and sells oranges. well, as this liability crisis hit America—and it's really happened in the last twenty years—the insurance companies just wrote more and more policies and collected bigger premiums. Now they wring their hands and point to lawyers. Well, that's hypocritical. The lawyers didn't do this, this is democracy in action.

The insurance companies and the defense attorneys—and look, I'm one of them—and the public decided that they wanted plaintiffs to win more, and that's what happened in the jury room and in the legislatures, and that wasn't lawyers.

Getting back to the Constitution, There is and has been for some time a number of people who want to convene another Constitutional Convention, who see the need for major kinds of changes in the Constitution. Do you see that as being necessary or desirable? And do you see it actually happening?

I don't think that Americans will convene a Constitutional Convention in the near future because there is so much concern over a runaway convention. It would be like a runaway grand jury kind of a thing where, once they're convened, there would be great concern about what could be done to contain them.

You want to remember that two hundred years ago in Philadelphia that's exactly what happened. We had a Constitution, but when they got together in Philadelphia—once they were organized as a Constitutional Convention—they redid a whole, brandnew Constitution. That was not their job, but it happened and lots of people are very worried that if you convened one it would happen again.

I think a lot of people would view the Constitution—and indeed, I would be one of them—as best addressed on an item-by-item basis, if at all, as you see a need for revision. We've done that with a number of Amendments and I believe that it has worked well.

In terms of the Supreme Court decisions, the visible appearance is that we have a less activist court than what has been true for the past thirty years or so.

Since the Warren Court?

Yes! Do you agree with that, and do you think this trend will continue?

I don't agree that we have a less activist or progressive court today than the Warren Court. As a lawyer who has been interested in this all of his life, I believe that the courts have always appeared progressive and activist when there has been a serious backlog born of inactivity in the legislative process.

As we came out of World War II and we came through what had been a depression-ridden period before that the courts found this country looking at serious problems with civil rights, particularly for blacks, and the legislatures were unable to deal with it. The courts responded and filled a void. Today the legislature is dealing with it. Congress has passed all varieties of acts to deal with social problems. So have state legislatures.

When the legislature is responsive and active—I'm not saying "liberal," and I don't mean by that to suggest anything radical. I'm just saying that when they're dealing with problems and answering questions—the courts will then appear to be more conservative and inert. When the legislature is unable to cope, as when black people were riding on the back of the bus, and a black student couldn't go to college at the state university in Mississippi, then the courts step in.

I don't personally think that the Supreme Court as you see it today should be described as "inactive." I think that Berger was an activist Chief Justice in many areas, and I think that it is merely a matter that they weren't called upon to break the new ground that the Warren Court was called upon to break. I can't believe that any American today who is critical of the Warren Court—and many people are—would for one minute challenge the correctness of the decisions concerning America rising up to the issue of racial prejudice.

Now that you have achieved the Presidency of the ABA, have had a platform for doing some of the things that you wanted to do at a relatively young age, where do you go from here?

I'm going to go through the rest of this year as ABA President, and I'm going to raise hell with illiteracy in America, and I'm going to try to establish a program that brings quality law to every community in this country as best we can do it. We need to better write laws so that people can understand them and that they work. Lawyers need to rise up in the public service of the law and the community as well as for their clients, in programs that the ABA is going to forward. I'm going to be a voice trying to work minorities into the main fabric of American life—including the legal profession—because I believe that if we don't do that America will fail. I think we must do it because it's just.

Is there a forum for addressing those issues? Is there an international law association, and does it have a forum?

The answer is yes, but the forum is the American Bar Association. There is an international Bar—I'm involved in it and I was a chairman of a meeting in New York City last September of that group—but the real forum is the ABA. That's where the action is. People have to understand that justice in the world is simply yearning for the American experience. We are the role model everywhere.

I've been in England twice this year. I've been in China and the Soviet Union, and I'm going to France, Argentina, and Chile

among other countries—and we are the forum. I want to tell you that when you go to these countries and you say, "I'm here representing the legal profession in America," you are listened to! In the Soviet Union, the morning after my arrival I was in Mr. Gromyko's office for two hours. These people are very interested. The People's Republic of China, the same way—the Ministry of Justice and the ranking officials were interested.

Americans have no idea of what influence they have throughout the world, and they have no idea of what a great country they have because of the justice system that people admire and envy here. You bet there's a forum!

Do you think that our views are representative of the profession as a whole? Are you in the forefront?

Well, they knew my views when they elected me President. They did it unanimously and so I guess that I can conclude, at the risk of sounding immodest, that I do speak for the American lawyer. I think I do speak for what justice is about in this country.

I think it's unfortunate that the public has the impression, somehow, that lawyers are self-serving or over-reaching. I've tried to change the image of the profession by earning a better image with the projects and programs that I've described to you. You don't do this overnight, but I think we've got a start and I think we're well on the way. We've reached out to poverty lawyers, judges, law teachers—people who have been outside this profession in the past—and we've brought them in the ABA this year in a program of waiving any charges at all for those who can't afford them. That's never happened before in the legal profession anywhere in the world.

It's obvious that whatever your other interests or involvements, the legal profession is your first love. Do you see any primary challenges for the profession in the future?

The most important challenge is the same as it has always been. That is the maintenance of an independent judiciary and the autonomy of the legal profession. We must not change the law into a business. The legal profession has to be an independent part of each state, of each community. The Bar Association is critical to that effort.

Our American way of life, as we know it, simply cannot survive without that.●

JIM HAWKINS

● Mr. SIMMS. Mr. President, a number of years ago, far more than I care to enumerate, I had the good fortune of meeting a fellow student at the University of Idaho in Moscow, ID, by the name of Jim Hawkins. My friendship with Jim, a native of Coeur d'Alene, ID, has endured and grown over the years.

Now Jim, after a very successful private business career, has become director of Idaho's Department of Commerce.

Jim Hawkins' new leadership role is good news for the people of Idaho. A recent article in the Boise magazine outlines clearly why this is so.

Jim Hawkins has charted an ambitious course for economic recovery in Idaho and the Boise magazine describes Jim's steady hand on the helm.

I commend this article to my colleagues and fellow Idaho Citizens and ask that the entire Boise magazine article be included in the RECORD.

The article follows:

FOR IDAHO, "THERE IS NO FINISH LINE"

(By Louise M. Schneider)

The framed poster that hangs behind the desk of Idaho's new Director of the Department of Commerce, James V. Hawkins, clearly expresses the philosophy of the new administration under Governor Cecil Andrus, the Department of Commerce, and its new leader: as far as commitment toward Idaho's economic growth and development are concerned. "There Is No Finish Line."

Not since the creation of the Department of Commerce on July 1, 1985, by the 48th Idaho Legislature has there been such a synergy between business, government and individuals in the State of Idaho dedicated to the goal of promoting a healthy economy for the state.

Who is responsible for this new energy and attitude? Primarily, of course, the new Governor, Cecil Andrus, who has long been a proponent of economic development and education in Idaho; and, secondly, Governor Andrus' choice to head the Department of Commerce—life-time Idaho resident James V. Hawkins. This appointment by governor Andrus, in fact, may prove to be one of the most critical in his entire administration—and a decisive step for the State of Idaho.

Jim Hawkins, a Coeur d'Alene native, comes from a family with a strong sense and history of public service. A graduate of the University of Idaho, he also comes with exceptional credentials as a successful businessman in private enterprise with a strong background in banking and marketing.

For virtually the first time since its inception, the Department of Commerce is attracting attention and generating excitement in all areas of the state.

Many citizens are now being exposed for the first time to the inner workings of the Department and the challenging task with which it is faced. The purposes of the Department are several:

Expand and enhance existing Idaho industries,

Promote Idaho investments,

Develop markets for Idaho products, goods and services,

Attract new business and industry to Idaho,

Promote Idaho's travel industry,

Provide technical and financial assistance to Idaho's local governments, and

Promote international trade.

The economic Advisory Council and the Idaho Travel Council are two private citizen groups that help provide policy direction to the Department. The four major divisions of the Department itself are Economic Development, Community Development, Tourism Promotion, and Science and Technology. The key personnel appointed by Hawkins to head those divisions are Terry Bowman, Wayne Forrey, Carl Wilgus, and Rick Tremblay, respectively.

Included among the responsibilities of the Department are such areas as: the Business and Industrial Assistance Program, which is designed to create a positive image of Idaho's business climate and to assist businesses with their expansion and relocation plans; the Development Finance program, through which financial loan assistance is being provided to Idaho's healthy expanding businesses as well as working with banking, investment banking, and community and venture capital firms to increase available capital; the Trade Promotion program, which focuses on developing an awareness of the importance of international trade, marketing opportunities, and the mechanics of trade opportunities for businesses to develop markets for Idaho products; the Procurement Outreach Program, which provides technical assistance to Idaho businesses wanting to begin selling their goods or services to the $180 billion federal procurement market, and the Community Development Program, which offers technical and financial assistance to promote better communities.

The Department has also been given legislative responsibility for promoting travel to and throughout Idaho. In Idaho, as well as nationwide, travel has been one of the fastest growing industries. In Idaho it has grown to become the state's third-largest industry, generating over $1.3 billion in income for Idaho citizens. It is estimated that the four million visitors to Idaho provide an additional $39 million in state tax receipts and $4 million in federal tax receipts. The travel industry in Idaho provides employment for 25,000 people, and generates $179 million in payrolls.

The Idaho Film Bureau is yet another vital part of the Department of Commerce. The Bureau supports and assists with on-location scouting as well as finding logistical support and serving as a liaison between movie companies and government offices. Productions filmed in Idaho have included Pale Rider, Bronco Billy, Breakheart Pass, Northwest Passage, and Bus Stop.

What is the message that the Department of Commerce is carrying to other people and businesses to attract them to Idaho? The message is as rich and varied as the Gem State itself.

The geography of Idaho goes from an elevation of 738 feet to mountain tops of 12,662 feet. Idaho is uncrowded with 83,557 square miles having an average of slightly more than twelve persons per square mile. The entire population of the state is just over one million. Idaho has 788 square miles of inland water with over 2,000 lakes. It has the deepest canyon in North America, Hell's Canyon, as well as 42 peaks of more than 10,000 feet in elevation.

As far as recreational activities, Idaho offers fishing, hunting, boating, rock hounding, hiking, white-water rafting, skiing, ice skating, snowmobiling and much more. Within a day's drive of most of the state's population are the Grand Tetons, the Sawtooth National Recreation Area, Yellowstone National Park, Craters of the Moon National Monument, Jackson Hole, and the Idaho Primitive Area. And then, of course, Idaho also has world-famous Sun Valley!

The cost of living in Idaho is well below the national average, with housing costs 10 percent below, utilities 34 percent below, and transportation costs 5 percent below national averages.

Even though Idaho is a resource-based economy and mining, timber, and agriculture are its mainstays, tourism, technology, and manufacturing are contributing more and more significantly to the region's growth.

Education is important in Idaho, too. Only 1.5 percent of the area's population over 25 years of age has less than five years of schooling and this number is declining steadily. Idaho students score above the national norm on college entrance exams year after year. There are four four-year and two community colleges in the state.

Idaho ranks among the top five states, according to State Policy Reports, in quality of property tax administration. Idaho also has some of the lowest state and local taxes, and has accumulated the lowest state and local debt per capita in the country.

Perhaps the most important strength in Idaho, though, is the people. What Idaho lacks in numbers is more than made up for in quality! Idahoans are open, friendly, well-educated, and hard-working. Inc. Magazine, in its fifth annual report on the states, ranks Idaho seventh nationally in the productivity and sophistication (percent of people over twenty-five who have graduated from high school) of our work force.

As Jim Hawkins points out, the quality of life, work ethic, religious base, diverse ethnic population, strong family unit, low utility costs, diverse geography, quality education, natural resource base, Idaho Nuclear Engineering Laboratory, and technology transfer potential in Idaho all make for a compelling story to attract new businesses and people.

Hawkins believes that the commitment of support from the citizens of Idaho can help the Department return Idaho to economic vitality. This commitment must be an ongoing process, he says. "Let the word go out that Idaho is open for business. Governor Cecil Andrus has pledged to create a true partnership between business and government."

"We have much to offer industry," Hawkins concludes, "including one of the best places in the world to live, and we are determined to make it one of the best places for a business to grow!"●

SENATOR EVANS AMENDMENT TO THE BUDGET RESOLUTION

● Mr. ADAMS. Mr. President, when the budget process began this year, I was unhappy. The President's proposal would have decemated the West; the first committee plan wasn't much better. Each placed a heavy burden on my State in particular and my region in general. They asked for an unequal sacrifice from the West.

I discussed my concerns with the chairman and he responded. The basic Chiles proposal we now have before us represents a good deal in terms of our specific concerns and a good deal in terms of our national concerns. By creating a realistic deficit reduction plan, it will help resolve the major economic problem we confront as a people. By doing so in a balanced way, it has treated the West in the same way that every other region is treated.

In my view, the agreement that I reached with the chairman does two things. First, it cuts in more than half the savings that are to be achieved from programs of particular interest to the West. Second, it eliminates any directions to the authorizing committees which would encourage them to achieve those saving through reforms of PMA's or timber receipts or the like.

My goal was to make sure that the West was not asked to sacrifice more than any other region of the country. That goal was achieved.

Do I want more—sure. Is this amendment attractive—certainly.

But the plain truth is that this amendment, like the others which have been offered, is not a serious attempt to address the dual problems of the deficit and the West. The Chiles proposal is. That is why I helped shape it; that is why I will support it.

In terms of specifics, with the PMA's we can maintain a repayment system that ensures a strong and competitive regional economy. Indirectly, this will benefit the entire Nation. For instance, heavy industry in the form of aluminum manufacturing plants and irrigated agriculture will be able to continue the utilization of this critical infrastructure without detrimentally being impacted.

In the area of shared timber receipts, communities that rely on this revenue source, will be able to maintain their communities without suffering the severe economic and social hardship that would result. Communities like Skamania County, in my own State retains the option to develop and build toward a competitive economic future.

This amendment proposes to add-back dollars for Western concerns within the Energy Committee. But the offset he suggests we use to fund this desirable goal are neither reliable or real. The proposal is analogous to asset sales which in essence sells our economic future. This offset will give away other valuable U.S. assets at face market value as well as add to our deficit. Further, it is questionable whether this is legally valid.

Within the framework of the Chiles plan, I believe the Energy Committee has the flexibility it needs—and the resources it requires—to address our continuing Western concerns. In fact, I am confident that my colleague, the author of this amendment, the senior Senator from my State, who serves on the committee will seek to prioritize these programs that will provide the most benefits to the West. With jurisdiction over 127 separate appropriation accounts, over 70 separate programs, 4 departments and at least 12 separate agencies, a wide variety of alternatives and options are available to this committee.

In the end, we cannot guarantee that we will escape all the burdens of deficit reduction. However, I can guarantee that if we do carry a burden under the parameters offered in this revised budget, it will not be more than anyone else. Further, that burden will not hit us to a major degree in any critical areas. This amendment is attractive, but it is not real. That is why I vote for this amendment.●

AN ALTERNATIVE TO TRA SECTION 806

● Mr. BAUCUS. Mr. President, section 806 of the Tax Reform Act of 1986 requires most partnerships, personal service corporations and subchapter S corporations to conform their taxable years to those of their owners, forcing many of these entities to switch from a fiscal to calendar year.

This requirement, which was added in the final hours of Senate consideration on the tax bill without hearings or debate, would place great burdens on the tax self-assessment system, small businesses, the accounting profession, and the Internal Revenue Service.

Specifically, the tax year conformity requirement will increase small businesses' accounting and legal fees. Small business owners will be required to incur the cost of closing their books twice and filing two sets of tax returns—Federal and State—for each of the two periods ending in calendar year 1987. They will also have to amend contracts, compensation arrangements, and retirement and employee benefit plans.

The tax year conformity requirement also will cause significant scheduling problems for accountants, creating additional burdens for CPA firms during the January through April tax season. Under this conformity requirement much of the work performed during the course of an entire year by CPA's—the audits, the preparation of financial statements, the tax planning and the preparation of tax returns—would be bunched into the same period of time when accountants are extremely busy preparing individual tax returns. This will have a particularly significant impact in relatively small firms in States like Montana, which depend on tax preparation for a large part of their business.

Another problem with the tax conformity requirement is that it fails to reflect the important business considerations that may be involved in selecting a fiscal year. Most entities select a fiscal year ending at a slow time in their business cycle, to facilitate the closing of the books and taking of inventory. For example, a grain elevator owner would want his tax year to end during the summer to permit the closing of the books and the taking of inventory before harvest, not on December 31 when the elevator is full of grain. A retailer would want his tax year to end after the December holidays and before spring merchandise came out, not on December 31 in the middle of the holiday shopping and sales and return cycle. A ski resort owner would want his tax year to end in May or June when there is not snow, not on December 31 when the slopes are filled with skiers and business is at its peak. The tax year con-

formity rule will disrupt many other small businesses as well.

Mr. President, an argument can be made that section 806 should be flat-out repealed. That, however, would result in a $1.7 billion revenue loss over 5 years. Recognizing this problem, I have been working with Montana accountants and with the members and staff of the American Institution of Certified Public Accountants to develop a revenue-neutral modification of section 806.

The proposed modification, in essence, would permit partnerships, personal service corporations, and subchapter S corporations to retain noncalendar years, so long as they make enhanced estimated tax payments to offset any tax deferral that results from the mismatch between the entities' and owners' tax years. By doing so, the proposed modification would permit taxpayers to retain a tax year that suits their business needs, while eliminating any resulting tax deferral. As a result, I expect that many such entitites would retain noncalendar years, avoiding the increased January-April workload crush that section 806 would create.

Mr. President, this proposed modification has the full support of the AICPA. I want to congratulate the members of that organization for their leadership in this matter. Together, we have been working to achieve a solution that is both responsible and effective.

I hope that this proposal can be further refined in the coming weeks. I look forward to working with the chairman and members of the Finance Committee to help enact it into law.

I ask that a description of the proposed modification be inserted in the RECORD.

The description follows:

DESCRIPTION

A. AN ELECTIVE PROVISION

The proposal is an optional one. An entity may choose whether it wants to retain its fiscal year or switch to the calendar year under the TRA '86 rules. The election would be made by the entity and not by the individual owners.

B. PARTNERSHIPS AND S CORPORATIONS

The owners of these entities who elect to remain on a fiscal year would make enhanced estimated tax payments. This would be accomplished by increasing each of the two safe-harbors (100 percent of prior year's tax or 90 percent of current year's tax) by a percentage of the prior year's deferred income. It is proposed that this will be 35 percent for 1987 and 28 percent in the following years with a phase-in over four years. Where the partnership or S Corporation in itself of an interest in a partnership, S Corporation or PSC, the partnership or S Corporation will be required to conform its year.

C. PERSONAL SERVICE CORPORATIONS (PSC)

The income deferral in these entities is often achieved through the deferral of payments to owners into the months after December 31. The remedy under the new proposal is to postpone the deduction at the corporate level if ratable payments to owners have not been made prior to December 31. Ratable payments can be based upon experience from the prior corporate year in order to avoid the necessity of predicting income or payments for the remainder of the current year. Where the PSC itself is an owner of an interest in a partnership, S Corporation or PSC, the PSC will be required to conform its year.

D. IMPORTANT POINTS TO REMEMBER

One of the purposes of the TRA '86 conformity requirements is to eliminate the tax deferral and to collect the taxes closer to the time the income is earned. The proposal reduces the deferral significantly and requires tax dollars to be paid earlier. However, the total taxes paid will be no greater than would have been paid under prior law or with the TRA '86 switch to the calendar year.

There is a four-year phase-in of the enhanced estimated tax payments which correspond to the four-year income spread in TRA '86.

Those entities which would be allowed to remain on or to adopt a natural business year under TRA '86 can still do so without being subjected to the above requirements.

Any entity which comes under this proposal and which elects or changes a fiscal year must select a year ending no earlier than September 30.●

GEORGE SCHARRINGHAUSEN

● Mr. SIMON. Mr. President, with growing concerns of both quality of and access to health care in the United States, I believe in doing all that we can to preserve the relationships between health care provider and patient.

A recent issue of the National Association of Retail Druggists Journal featured a profile of George Scharringhausen, a pharmacist in Park Ridge, IL. George has worked for almost 60 years to cultivate and maintain a quality relationship with the patients and doctors in his community. I commend him for his efforts and fine service. I ask that the article be inserted into the RECORD.

The article follows:

GEORGE SCHARRINGHAUSEN

SINCE 1928, HE HAS MADE RAPPORT WITH THE COMMUNITY HIS BUSINESS

For the 400th time, this month, George Scharringhausen is sending out his monthly communication to colleagues. "We started Secundum Artem, our bulletin, 33 years ago with a mailing list of 15. Now it goes to over 200 deans of schools, physicians, pharmacists, and friends in health fields. It's Scharringhausen Pharmacy's way of maintaining a relationship with doctors in the community," says Scharringhausen.

Each month, Secundum Artem reminds doctors, dentists, and their patients of Scharringhausen Pharmacy's after-hours phone numbers, emergency services, and emphasis on keeping up with new products and new trends in the pharmacy business. The bulletin announces price changes and discusses timely health questions.

And the monthly communication also is a reminder that since the 1920s, when he joined his father as a pharmacist in the Park Ridge, Illinois store, George Scharringhausen has made rapport with the community his business. "A pharmacist has to like people, I smile with my customers," Scharringhausen says, adding, "Smile and call them by name, and you really have something."

STARTING OUT

In the 1920s, the pharmacy business was much more people-oriented, says Scharringhausen. He remembers answering a young doctor's late night call for a maternity kit, "You know, one of those kits manufacturers made for delivering babies at home," and not finishing work that night until after he had helped deliver the baby.

Scharringhausen started out helping people in the Chicago pharmacy where his father worked. "It was a corner drugstore—a good place for business, right on the east-west, north-south transfer corner for streetcars," says Scharringhausen. His father moved and opened the Park Ridge, Illinois store Easter Sunday, 1924 in order to work in a closer community environment.

Scharringhausen Pharmacy is now more than 60 years old and George Scharringhausen's own son, William, a member of NARD's Executive Committee, manages the store with him. Together, they continue to provide 24-hour service to their customers. Whoever is closer to the pharmacy answers the beeper. "Last night, Sunday, I was 20 miles away and came in for an emergency call," says 81-year-old Scharringhausen.

The people and retail aspect of pharmacy always has appealed to Scharringhausen. After graduating from the Illinois College of Pharmacy in 1928, he took night classes at Nothwestern University. "I used to eat up the advertising courses." he says.

Scharringhausen Pharmacy's personalized ads reflect his interest. Scharringhausen and his son write the copy for all the promotions, designed to address the community they serve. For instance, says Scharringhausen, "recently we had a problem with flooding in this area, and Scharringhausen Pharmacy ran ads thanking people who helped. Regularly, we thank the fire department, the police department, and others who serve Park Ridge."

REMINDERS FROM THE PAST

The biggest problem facing his independent business and the services he offers customers, says Scharringhausen, is discriminatory pricing by manufacturers. Today it's more difficult to communicate with the pharmaceutical companies. At one time, the people who made the policies had a background in pharmacy. "Now, many of them don't even know what goes on in back of our counter," he continues.

Scharringhausen has served on the Lederle and Smith, Kline & French pharmacy consulting boards and still sees these boards as an avenue for impressing on manufacturers their responsibility to pharmacists. "What the drug firms need to understand is something my father once told me: When you take a drink of water from the cup, remember who dug the well," says Scharringhausen. "Independent pharmacists have promoted the merchandise manufacturers sell, not hospitals."

OPPORTUNITIES FOR NOW

Scharringhausen has no trouble remembering whom he serves. "Get involved in community affairs," he tells young pharmacists. "There are all sorts of opportunities for meeting the people who will be your customers and colleagues. Try the Boy Scouts, YMCA, local churches, the 4-H."

His community service has paid him back by giving Scharringhausen his most satisfying experiences as a health professional. He joined the local Kiwanis Club in 1929 and for the past 20 years, until last year, was chairman of the Kiwanis Club's Spastic Paralysis Research Foundation. He works as liaison between clubs and reseachers, letting each one know what's going on. "I've spent a great many hours," he says, "and being able to help people has been the best part of my career."●

125TH ANNIVERSARY OF ST. AGNES HOSPITAL

● Mr. SARBANES. Mr. President, on Wednesday, May 20, St. Agnes Hospital in Baltimore will hold a special rededication ceremony to mark a very historic occasion. The Daughters of Charity of St. Vincent de Paul 125 years ago founded this distinguished institution which through its steadfast commitment to the people of the community has given so much to Baltimore's proud tradition of medical excellence. Throughout its history St. Agnes Hospital has truly taken a compassionate, personal approach in caring for all patients, whether young or old.

St. Agnes Hospital traces its beginning to 1862 when, due to Charles M. Dougherty's benevolence, the Sisters acquired a house at Lanvale Street and Greenmount Avenue in the center of Baltimore. At Mr. Dougherty's request the sisters perpetuated the name of his wife, Agnes Kelly Dougherty, in naming their new institution. From the beginning St. Agnes Hospital has followed the Daughters of Charity founding belief: "You are a unique creature of God and you should be so treated and cared for."

In 1876 the hospital was moved to its present location at Caton and Wilkens Avenues, a rolling 30-acre site in southwest Baltimore donated by Lady Elizabeth Caton Stafford, granddaughter of Charles Carroll of Carrollton. At the suggestion of Cardinal Gibbons, Archibishop of Baltimore, St. Agnes became a sanitarium 22 years later and in 1906 was reorganized as a general hospital.

This fine medical care facility continues to take pride in having established the second oldest surgical residency in the United States under the leadership of Joseph Colt Bloodgood, M.D., chief of staff from 1906 to 1935.

The hospital opened its seven-story facility in 1961, another phase in a long-term commitment of people and resources to providing accessible, loving health care with state-of-the-art technology. St. Agnes distinguished itself once again when in 1972 it became the first hospital in Maryland to introduce a comprehensive and progressive coronary care program for the rehabilitation of heart attack patients using a wireless monitoring system similar to that used by American astronauts.

Today, St. Agnes Hospital, a large, full-service teaching hospital with 2,300 dedicated staff members, offers a patient-bed capacity of 458 and the utmost in modern technology for treating 125,000 people annually. The new programs and expansions are too numerous to list, but clearly St. Agnes has continued to respond to the changing needs of Baltimore's citizens and many from throughout the State. The hospital is fortunate to be part of the Daughters of Charity National Health System, the largest not-for-profit health care network in the United States today.

Since 1981 St. Agnes has established numerous centers and specialized programs. Its chest pain emergency center—the first in the Nation—is successfully reducing the occurrence of sudden death due to coronary disease by providing community members experiencing chest pain with rapid coronary care access. A remodeled 20-bed neonatal intensive care unit accommodates infants admitted into that area through the State referral system. The section of audiology, speech and language provides comprehensive evaluation, diagnosis and treatment of patients with hearing and speech difficulties. The adolescent obstetrical service responds to the special needs of pregnant adolescents. The hospital's argon laser service provides effective treatment of the dreaded blindness of diabetic retinopathy. A helipad was utilized for the first time in 1982 when the Maryland State Police Medivac Helicopter transported a critically ill infant to St. Agnes.

St. Agnes Hospital was and remains active in researching and developing programs to improve the health care of its patients in patient teaching, emergency physician service, spiritual care, and comprehensive coronary care.

In addition to working for improved treatment facilities, the hospital plays an important role as educator. Through its devoted and well-organized teaching faculty, St. Agnes effectively fulfills its commitment as a community teaching hospital with four active residency programs in medicine, surgery, obstetrics and gynecology, and pediatrics, serving 90 house staff physicians.

St. Agnes Hospital is an integral part of the Baltimore health care community through its affiliation with the Johns Hopkins University School of Medicine in Surgery and the University of Maryland School of Medicine in Orthopedics. As a cooperating agency it provides the clinical education for student nurses at the University of Maryland School of Nursing and the Catonsville Community College Clinical Nursing Program.

In carrying on its work over the last century and a quarter, St. Agnes Hospital has grown tremendously under the guidance of its board of trustees, the Daughters of Charity. It is very fortunate to have a strong and effective board and professional, hard working staff, not to mention the St. Agnes Foundation, lay advisory board, the auxiliary, and volunteers, who so generously provide support. The partnership of medical professionals and community members working together perpetuates the fine tradition of health care service St. Agnes established so long ago. The accomplishments of St. Agnes Hospital are testimony to this critical partnership and its impact on addressing modern day social and medical problems.

As the hospital celebrates this significant milestone, I wish to congratulate the Daughters of Charity, particularly Sister Mary Louise Lyons, D.C., president of the board of trustees and hospital administrator, as well as other officers, all staff members and volunteers. St. Agnes Hospital can truly take pride in its anniversary theme: "A Tradition of Caring for 125 Years" as it reflects an outstanding record of patient care and community service in fulfilling its founding philosophy.●

LAND WITHDRAWAL FOR VETERANS MEDICAL CENTER

● Mr. BINGAMAN. Mr. President, today I join my distinguished colleague from New Mexico in introducing a bill of critical importance to all veterans and their families in my State. This legislation would transfer ownership of an important 5.081 acre parcel of land in Albuquerque to the Veterans Administration in order to help alleviate a serious parking shortage at the Veterans Administration Medical Center [VAMC].

The parcel of land in question was at one time the property of the Albuquerque VAMC. In April 1974, this land was transferred at no cost to the State of New Mexico. This conveyance was contingent upon its use as a highway corridor. However, the State laid aside plans to build a highway through the land. As a result, the VAMC has sought to reacquire the parcel given the State. At the VA's prompting, the State released this land to the General Services Administration [GSA] at no cost. The VA then requested ownership from GSA. Because GSA has placed a value of $540,000 on the land, the VAMC cannot realistically expect to acquire this land.

The legislation we are proposing would allow for the expeditious transfer of the land from GSA to the VA. The land is needed in the very near future by the VA to accommodate the parking shortage that is expected with the construction of new buildings for use by the VAMC and the Kirtland Air Force Base Hospital. Action must

be taken now to provide long-term parking for the use of veterans and their families.

In light of parking problems that would arise without the completion of such a transfer, I urge my colleagues to support this measure.●

ORDERS FOR TOMORROW

RECESS UNTIL 9 A.M.

Mr. BYRD. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 o'clock tomorrow morning.

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

MORNING BUSINESS

Mr. BYRD. Madam President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of morning business not to extend beyond 9:30 a.m., and that Senators be permitted to speak therein for not to exceed 5 minutes each.

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

CONSIDERATION OF H.R. 27

Mr. BYRD. Madam President, I ask unanimous consent that at 9:30 a.m. tomorrow, the Senate proceed to the consideration of H.R. 27.

The PRESIDING OFFICER. Will the majority leader repeat the number?

Mr. BYRD. Yes, Ma'am. This is H.R. 27. It is Order No. 115.

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

Mr. BYRD. Madam President, there is a time agreement on that measure and it provides for 2 hours overall, including debate on the amendment or amendments, whichever may turn out to be the case. I anticipate that there will be rollcall votes early. I hope that the rollcall votes on that measure would be over by 11 o'clock but I cannot assure that.

May I ask the distinguished Republican leader if he has any further business to transact?

Mr. DOLE. I have no further business. We do hope we can accommodate two of our Senators who must be gone tomorrow, that we can have that last vote on or before 11:30 a.m.

Mr. BYRD. Yes. I thank the leader. I also would express the hope, Madam President, that the Senate could take up the short-term debt limit extension tomorrow hopefully without any amendments hereto. The measure has been cleared on this side. I know the distinguished leader on the other side will probably be talking to the President. May I say that if there are amendments on the other side of the aisle, I expect amendments on this side of the aisle—not that I have any, but there are Senators on this side who want to call up amendments. I assured them that the Republican leader and I were attempting to get an agreement whereby there would be no amendments. And so those on my side of the aisle, at least some of those who had indicated to me they had amendments, stated they would not call up an amendment if that were the case. So it might help the Republican leader in his discussions at the White House for the White House to know that if there is an amendment on the other side of the aisle, there could very well be amendments on this side of the aisle.

It is the hope of both leaders, of course, I say again for the record, that there be no amendments offered to this measure, so that we can get it passed after a reasonably short time for debate and get on with other business.

Mr. DOLE. Mr. President, will the distinguished majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. I indicate for the record that we think there may be not more than three Senators on this side who have not yet been able to clear this for action. We hope that can be done tomorrow morning, so that we can do it tomorrow afternoon. It is essential.

The President wants us to pass a clean bill. I have indicated to my colleagues that I intend to support the President, and I have made that clear in our policy luncheon and to other Senators since that time.

I certainly understand the rights that all Senators have, and I know that some feel very strongly that this is the time to have budget reform and to do some other things. I hope that in this instance we might forgo that and pass a clean debt ceiling. That would save several hours, at least, of the Senate.

Mr. BYRD. I thank my friend.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Madam President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to, and at 6:26 p.m., the Senate recessed until tomorrow, Thursday, May 14, 1987, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate May 13, 1987:

DEPARTMENT OF STATE

James H. Michel, of Virginia, to be Ambasssador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

BOARD FOR INTERNATIONAL BROADCASTING

Kenneth Y. Tomlinson, of New York, to be a member of the Board for International Broadcasting for a term expiring April 28, 1990, vice Arch L. Madsen, term expired.

DEPARTMENT OF JUSTICE

Michael W. Carey, of West Virginia, to be U.S. attorney for the southern district of West Virginia for the term of 4 years, vice David A. Faber, resigned.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John H. Moellering, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Dale A. Vesser, [redacted], U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with his assignment to a position of importance and responsibility, designated as such by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Jimmy D. Ross, [redacted], U.S. Army.