SENATE—*Wednesday, October 14, 1987*

(Legislative day of Tuesday, October 13, 1987)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN 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.

*Yea, though I walk through the valley of the shadow of death, I will fear no evil; for Thou art with me * * *. Surely goodness and mercy shall follow me all the days of my life, and I will dwell in the house of the Lord forever.*—Psalm 23:4-6.

Precious in the sight of the Lord is the death of His saints.—Psalm 116:15.

"God of all comfort," we pray for Senator KASSEBAUM, her mother, and the family in the loss of her father. May Thy presence and Thy peace fill their hearts with comfort and consolation. We thank Thee for a great American who reached the century mark, having served his country well, for his rich and productive later years, and for the memory and inspiration his life brings to all who knew him. In this large Senate family, Gracious Father, there are others of whom we are unaware who are hurting, because of loss or illness of a loved one, sickness or accident, financial difficulty, loneliness, job uncertainty, and other innumerable reasons. May each experience Your gentle, tender care in the hour of need. We pray in the name of Him whose agenda was love for all who are needy. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 14, 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. Under the standing order, the majority leader is recognized not to exceed 7½ minutes.

THE BORK NOMINATION

Mr. BYRD. Mr. President, I see the distinguished Republican leader on the floor. I wish to address a question to him.

Is it possible, now that the Bork nomination is on the Executive Calendar, that the two leaders might join in waiving the 2-day rule? I am willing to do so and eager to do so.

I would like to see this Senate get started on the Bork nomination today—today is Wednesday—and vote on the nomination as soon as possible, hopefully today.

Would the distinguished Republican leader indicate whether or not he is willing to join with me in waiving the 2-day rule.

Mr. DOLE. Mr. President, let me indicate to the majority leader that we, as I indicated yesterday afternoon, had a meeting last night. I thank the majority leader for permitting us to do that.

As I understand the rule, the leaders could waive it, but I think right now I am not in position to do that because I have almost unanimous indication from the membership that they prefer I not do it.

But let me also suggest that I think there is a willingness on both sides, and I took the liberty of calling Judge Bork myself last night. It seems to me that no one has any quarrel with what the majority leader said. He deserves a vote. I do not suggest he should dictate to the Senate when that vote should come.

But as I understand it, there are a number of people preparing information that should be used, high-level information, not a personal assault on anybody in the Senate, and that information is not yet available, and so he was hoping that the vote would come next week.

I regret that I am not in a position now to waive the 2-day rule.

I will be glad to check with the majority leader later this morning. We are going to have another meeting.

But if we took it up and we waived the 2-day rule, it might just prolong the debate. We might not save the time.

I know the schedule before us, and I know we do have a number of items cleared on this side, but at this point I cannot join the majority leader in waiving the 2-day rule.

Mr. BYRD. Mr. President, I regret that the distinguished Republican leader is not ready to join with me in waiving this rule. I realize that for him to give consent to proceed to the nomination would require consent from other Members on his side of the aisle but he does not need the consent of other Members on his side of the aisle to waive this rule to join with the majority leader.

I am nonplused. Judge Bork wants a vote on his nomination. We Democrats are ready to vote on the nomination. And as the Republican leader has said, there should not be any hint that Judge Bork is attempting to dictate when this nomination will be voted on.

I think Judge Bork might keep in mind that a motion to table this nomination once it is up could be made and that would stop all debate. I do not want that to happen. I want a vote up or down on the Bork nomination.

What is it the Republicans want? Do they want an issue? Or do they want a judgship?

The longer we delay taking this Bork nomination up, the longer we are going to see delayed the filling of that vacancy on the Supreme Court. That does not help the Senate, that does not help the Court, that does not help the country.

What is it the Republicans want? If they want a vote on the Bork nomination, they can get it. Or do they want to string it out and promote divisiveness, contention, and dissension, which could spill over into the next nomination? And that is what we all ought to want to avoid.

The sooner we get on with the Bork nomination and vote on it, the better. The die is cast on that nomination, and there is no point in dragging it out.

I hope that we could get this nomination up today and I will be back urging the Republican leader to help me to waive this 2-day rule. We have much work to do here.

Can we get an agreement to vote on the Byrd-Warner amendment to the Weicker-Hatfield war powers legislation?

Mr. DOLE. If the majority leader will yield, I did not explore that. I could if the majority leader desires that.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

I would just say, if the majority leader will yield further, I do not want to argue with the majority leader, but I find it a little, I guess, unique that, after waiting 72 days to start the hearings on this nomination, having 12 days of hearings, and the report having been filed only last night, suddenly there is this great generosity on the other side that we should have an immediate vote on Judge Bork.

If we were delaying other Senate business, then I think I would be in agreement with the majority leader, but I think, as he knows, and we need to continue to cooperate, we have two or three appropriations bills cleared for action, and I will check on the Byrd-Warner amendment to the War Powers Resolution. And I will again check later in the day to see if we could waive the rule.

But the point I would make to the majority leader, if we did waive the rule today, did agree to take up the Bork nomination today or early tomorrow morning, I would assume there could be several days of debate unless a motion to table was made or unless cloture was invoked. And what I was attempting to do was get some precise time we could have a vote so that the leaders would know what else we could do in the interim.

So I do not want the majority leader to infer that we are trying to frustrate your efforts, because we would like to depart here on November 21. We would like to see another nomination sent up, if that should become necessary, and have that confirmed by that date if possible.

Mr. BYRD. Mr. President, the November 21 date becomes more and more unclear with the passage of every day and with delay on acting on the Bork nomination. I would suggest that Senators be very careful not to stake too much on the November 21 target date. I would like to reach that date, but the Judiciary Committee needs time to prepare for a new nominee, and the administration needs to get a nomination up to the Senate. We need to get by the Bork nomination first.

Now, I am going to be back again and again today asking that we waive this 2-day rule, because nothing could be gained by stretching out this debate. There is only harm that could be done to the next nominee.

Now, what is it the administration wants? Do they want an issue? Do they want a political issue? Do they want to chew on the old bones and drag out the old ashes? Or do they want to get on with resolving a matter that is waiting and crying out to be resolved; namely, the filling of the vacancy on the Supreme Court?

Mr. EVANS. Will the majority leader yield?

Mr. BYRD. Yes, I yield.

Mr. EVANS. Might I say to the majority leader that I am not speaking on behalf of anyone except this Senator in saying that I have been, frankly, dismayed—and I have not even indicated yet my vote on the Bork nomination—but I have been dismayed in the way we have carried out the process. This has little to do with Judge Bork himself, but merely the fact that virtually all Members of the Senate have declared their intentions, most prior to the hearing, many shortly after the hearings, but long before they would have had an opportunity to have the transcripts in hand and an opportunity to read those transcripts.

I have read all 730 pages from beginning to end of the testimony and the questions asked in the Judiciary Committee of Judge Bork. Frankly, Mr. Leader, I would like to read the committee report.

I guess, ultimately, it seems to me, if we are ever going to regain the essence of what this Senate is all about, it ought to be that through a thoughtful process we listen at hearings, read the testimony, read the report of the committee so that we have their wisdom, and then debate on the Senate floor before making final decisions. Now I know that that has not happened in this case. And it is too bad that it has not, because it would be uplifting to the Senate if we would all go through that process on every important issue in front of us; to carefully read, to listen, to take part when we are members of a committee, to have the benefit of the report of a committee when an important issue comes in front of us, to have open and free debate as I thought I understood debate before I ever came to this Senate. And it is too seldom that we ever engage in honest debate here.

I would have hoped that this nomination and another nomination, if it comes forward, and another nomination after that for whatever position exists if they are controversial, if they deserve debate, then they also deserve the thoughtfulness of all Members.

Therefore, I would ask the majority leader, at least for this one Senator, not speaking for the minority leader, not speaking for the Republican Party, not speaking for anybody other than myself, that there be sufficient time in order to read reports, to thoughtfully try to make a decision on an important nomination which will, if adopted or turned down, have an effect on this Nation and its future long after most of us are gone from this Senate. I think a few days to accomplish that would certainly not harm the Senate.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

I think there is plenty on the Bork record. His record is prolific with writings and lectures and statements. There have been exhaustive hearings. What would be uplifting, I think, would be for the Senate to get on with a new nominee who can be confirmed.

Now, I will be glad to keep this Senate open all night for Senators who wish to debate. They want to debate the process, and in doing so, they want to string out the process.

So let it be known and let it be heard by all. The Senators who want to debate this nomination can start today and we can go all night if they want to debate, and the television cameras will be on. But I should think that if they prefer to have a nominee confirmed rather than an issue to drag out into the election, they would stop beating a dead horse and get on with the nomination.

So they will have plenty of time to debate. There is no restriction on the Senate's being open or closed here. If Senators want to stay around and debate, I will be here and we will keep the Senate open as long as they want to debate—into the night. Let us have debate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time for the majority leader has expired.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senator from Wisconsin may have 5 minutes which I had promised to yield to him from my time.

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

The Senator from Wisconsin is recognized for 5 minutes.

Mr. PROXMIRE. Mr. President, the majority leader has been more than generous with this Senator—time and time again he has given me his time—and he is generous once again this morning.

A SUCCESSFUL SDI WOULD BRING A MORE DANGEROUS WORLD

Mr. PROXMIRE. Mr. President, what is the principle argument against the strategic defense initiative? Is it the cost? No. The cost is appalling. It would be $1 trillion. But it would be $1 trillion spent over a number of years. The estimated time for building and deploying SDI fully is about 25 years. The most authoritative, independent study of SDI cost has estimated that in the most demanding 10 years the cost would be less than $50 billion per year. We could raise that $50 billion annually with an 11-percent increase in the personal income tax. That's a painful bite to be sure. But if Americans accepted the notion that the 11-percent income tax hike could protect our country against a Soviet nuclear attack, they would accept it. This Senator is convinced that there is no way SDI could work. I am certain that far less expensive counter measures would

enable the U.S.S.R. to defeat SDI. Obviously the advocates of SDI disagree. They may be right. I may be wrong. Let's assume I am wrong. Assume SDI will work. If so, should we build it? My answer is: "No!" Even if we are positive that SDI would foil any Soviet attack on our country we should not build SDI.

Here's why: For the past 40 years we have kept the superpower peace. We have not suffered the nuclear war so many thoughtful people were flatly predicting 25 and 30 years ago. Europe has now enjoyed its longest period of peace in centuries. Why? Because it is obvious that a nuclear war would utterly destroy civilization. Both sides would lose, and utterly lose. There would be no victor only the vanquished, the destroyed, the ruined, the dead. Both sides know that. This is precisely what deterrence means. We have for nearly two generations attained the goals of the dreams of idealists and the great religious leaders for thousands of years. But let us never forget that this era of peace that may extend for hundreds of years to come has not been the result of love on Earth. Kindness and compassion has not taken the place of hatred and fear. Indeed, we have peace exactly because we fear nuclear destruction. In Churchill's words, "Safety is the twin child of terror." So what does a successful SDI do? It destroys the terror. It destroys the credibility of the Soviet's deterrent. From our standpoint it makes the world once again safe for war. With successful SDI, we will have no reason to fear that our cities will be destroyed. We will be confident that SDI makes them safe.

Now what do we do with that safety and that power? Certainly the Soviet Union or perhaps China or some other country more advanced technologically will develop their own SDI within a few years. In this interdependent world of instant worldwide communications and widespread scientific knowledge, this is certain. Will this mean that with several countries equipped with SDI technology the world will be safe? Will we have replaced deterrence based on Churchill's terror with ballistic missile defenses as the twin child of safety? No way. The nature of the most advanced and promising SDI defense makes a multiplicity of SDI defenses far more likely to initiate nuclear war. The most advanced SDI weapons are the particle beams and lasers. Here we have weapons that could potentially strike with unimaginable power and literally with the speed of light. What does that mean? That means they would cover 186,000 miles in a single second. Sure these SDI components are designed for defense. But obviously they would have devastating offensive applications. Would countries with this dazzling new military power refrain from using it? Imagine our world 40 or 50 years from now when several nations have the power to zap any object they want to zap anywhere in the world in one-twentieth of a second. And by zap I mean hit the object with such immense destructive power and with such precision that it could literally make the enemy object disappear from the face of the Earth. Such a development is years away. But this is where the SDI technology leads.

Somehow we must understand that our salvation does not lie in weapons defensive or offensive. Our salvation lies in arms control. Our salvation lies in an arms control program that builds on the grim fact of the present deadlocked nuclear deterrence—the clear consciousness on both sides that a nuclear war today can leave no winners only losers. Our mission should be to preserve this standoff that has kept the peace for 40 years.

To advance SDI is to embrace the terribly dangerous illusion that the superpowers can continue to develop more and more powerful, swifter and more destructive defensive weapons that will only be used defensively. We can't. Those weapons can and will have powerful offensive application. We have barely started to build the beginning of an arms control apparatus. Let's continue it. Let us keep the promise of the 1963 limited nuclear testing treaty and pledge both sides to refrain comprehensively from nuclear weapons tests. Let us use arms control to strive to apply that same restraint to the development of newer and more devastating nuclear weapons such as lasers and particle beams of infinite power. Let us never forget that arms control and cooperation, not an onrushing military technology is the way to survival.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the Republican leader is to be recognized for not to exceed 7½ minutes.

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

The ACTING PRESIDENT pro tempore. Without objection, the Senator reserves his time.

Mr. BYRD. Has the time of the Republican leader been reserved?

The ACTING PRESIDENT pro tempore. The Senator is correct.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 30]

Bingaman	Evans	Pryor
Breaux	Fowler	Rockefeller
Byrd	Hatfield	Roth
Dole	Melcher	Rudman
Durenberger	Proxmire	Shelby

The ACTING PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of absent Senators.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators. I ask for the yeas and nays on the motion.

The ACTING PRESIDENT pro tempore. Is there is 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 [Mr. BYRD] to instruct the Sergeant at Arms to request the presence of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Michigan [Mr. LEVIN], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Nebraska [Mr. KARNES], the Senator from Idaho [Mr. McCLURE], the Senator from South Carolina [Mr. THURMOND], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

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

The yeas and nays resulted—yeas 55, nays 34, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—55

Adams	Fowler	Packwood
Armstrong	Glenn	Pell
Baucus	Graham	Proxmire
Bentsen	Hatfield	Pryor
Bingaman	Heflin	Reid
Boren	Hollings	Riegle
Bradley	Humphrey	Rockefeller
Breaux	Inouye	Roth
Bumpers	Johnston	Rudman
Burdick	Kennedy	Sanford
Byrd	Kerry	Sarbanes
Chiles	Lautenberg	Sasser
Cranston	Leahy	Shelby
Daschle	Matsunaga	Stafford
DeConcini	Melcher	Stennis
Dixon	Mikulski	Stevens
Dodd	Mitchell	Wirth
Exon	Moynihan	
Ford	Nunn	

NAYS—34

Bond	Conrad	Durenberger
Boschwitz	D'Amato	Evans
Chafee	Danforth	Garn
Cochran	Dole	Gramm
Cohen	Domenici	Grassley

Hatch	McConnell	Symms
Hecht	Murkowski	Trible
Heinz	Nickles	Wallop
Helms	Pressler	Weicker
Kasten	Quayle	Wilson
Lugar	Simpson	
McCain	Specter	

NOT VOTING—11

Biden	Kassebaum	Simon
Gore	Levin	Thurmond
Harkin	McClure	Warner
Karnes	Metzenbaum	

So the motion was agreed to.

The ACTING PRESIDENT pro tempore. A quorum is present.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1988

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 3058) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1988, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Weicker Amendment No. 953, to restore funding for the low-income energy assistance program.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I am pleased to present before the Senate today the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation bill for fiscal year 1988. This bill, which provides $128.2 billion in total budget authority for fiscal year 1988, reflects the diligent care and able effort which our entire committee has rendered. In particular, however, it is evidence of the hard work and excellent leadership of subcommittee Chairman CHILES and the ranking minority member, Senator WEICKER. I also wish to compliment the highly skilled work of the staff of their subcommittee: Mr. J. Mike Hall, Mr. Jim Sourwine, Miss Mary Malaspina, Mr. Peter Rogoff, Miss Susan Quantius, Mrs. Nancy C. Anderson, Mrs. Annette P. Feathers, Miss Maureen Byrnes, Mrs. Ricki Poster Sheehan, Mr. Craig A. Higgins, and Mrs. Debbie Rieman.

Mr. President, I want the record to show what a tremendous job and amount of work has been done here by the staff of this subcommittee and the two ranking members, the Senator from Florida and the Senator from Connecticut. It is an amazing amount of work. I know because I am on this committee myself, and a member of this subcommittee. But I know the volume of work day and night, over and over many times, that they have been through on these tremendous matters. They did the work with the help of others and that has brought this bill into being. I commend them and thank them warmly as a fellow member of the committee.

I now wish to briefly highlight a few important items regarding this bill.

Mr. President, this bill is highly important from many angles and carries what was one time thought to be a large sum of money. But we do have now a figure that is below the 302(b) allocation for budget authority and outlays. As I have previously indicated, this is essential for all appropriation bills which are to be taken up for consideration on the Senate floor.

Second, the committee's recommended $128.2 billion in budget authority is below the President's request and is only slightly above the House-passed level of $125.6 billion.

Finally, I would ask my colleagues to resist any further amendments adding additional funds which would violate the bill's spending ceiling set by the subcommittee's 302(b) allocation. This would cause the reversal of the work that has been done here in the second go-around all the way through.

Let me also mention that the Senate rules do not permit legislative amendments on appropriation bills.

In conclusion, I firmly support this bill and ask that it be adopted so that we can proceed to conference with our House counterparts in a timely manner.

So, again, I thank and commend these two Senators in particular. They have had valuable help from other Members, too. I commend them and I am glad to recommend that the body of the Senate support this bill in its entirety.

Mr. President, I yield the floor.

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

Mr. BYRD. Mr. President, we would urge all Senators who have amendments to the Labor-HHS appropriations bill to be prepared to come to the floor and call them up. Otherwise, we might move to go to third reading. That would be a debatable motion. But nevertheless it is a motion. It can be voted on.

I believe Mr. CRANSTON has an amendment. The two managers are here. We are ready to go.

Mr. CHILES. Mr. President, yesterday we laid down the Labor-HHS appropriations bill, and we adopted the committee amendments.

Senator WEICKER proposed an amendment on low-income energy, and requested its consideration be delayed.

Mr. President, I ask unanimous consent to lay aside the Weicker amendment.

The ACTING PRESIDENT pro tempore. Is there objection? Hearing none it is so ordered.

Mr. CHILES. Mr. President, the bill is now open for amendment.

AMENDMENT NO. 955

(Purpose: To prohibit the use of funds by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 until final judgments have been rendered in certain court cases and appeals thereto completed)

Mr. CRANSTON addressed the Chair.

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

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

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for himself and Mr. WILSON, proposes an amendment numbered 955.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . (a) Subject to subsection (b), none of the funds made available by this or any other Act may be used by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.)

(b) The prohibition established in subsection (a) shall apply until—

(1) the Court of Appeal for the Third Appellate District of California has rendered a final judgment in each of the cases—

(A) *Ixta et al. v. Renaldi* (Case No. 3 Civil C 002805); and

(B) *California State Employees Association, Local 1000 Service Employees International Union, AFL-CIO, a California Corporation, on behalf of its affected members v. Deukmejian et al.* (Case No. 3 Civil C 002664); and

(2) all direct appeals by the parties in each of the cases have been completed.

Mr. CRANSTON. Mr. President, the amendment I am proposing would prohibit the Department of Labor from assuming exclusive Federal jurisdiction over the California Occupational Safety and Health Administration Program or from withdrawing approval of the Cal-OSHA plan. It would maintain the status quo by preventing the Department from taking such irrevocable actions until pending court cases in the California State Court of Appeal are resolved regarding the legality of the Governor's action withdrawing the State plan.

Mr. President, California has the most comprehensive Occupational Health and Safety Program in the country. It exceeds all other State programs and is far more extensive than the Federal OSHA Program. Unfortunately, the Governor of California does not share the commitment of the majority of Californians, including much of the business community, to maintaining this vitally important program.

Early this year, by letter dated February 6, 1987, Governor Deukmejian informed Labor Secretary Brock that California was withdrawing its approved State OSHA plan. Since that time there has been and continues to be substantial dispute regarding the validity of the Governor's action both in the California State Legislature and the courts.

The California Legislature has repeatedly and overwhelmingly disapproved the Governor's action, although it was unable to override his veto of funding for the Cal-OSHA Program. On September 11, however, the legislature passed Assembly Joint Resolution 56—by a unanimous vote in the Senate and by a nearly 2-to-1 margin in the assembly—urging that Secretary Brock continue to refuse to accept the Governor's letter withdrawing the California plan from coverage under the Federal Occupational Safety and Health Act of 1970. In addition, the entire congressional California delegation wrote Secretary Brock on September 18 also requesting the Department not to take any irrevocable actions with regard to the Cal-OSHA Program.

Mr. President, I ask unanimous consent that a copy of that letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit No. 1.)

Mr. CRANSTON. Mr. President, there are two critical cases pending in the Court of Appeal for the Third Appellate District of California that challenge the authority of the Governor, in the absence of an express legislative authorization, to abolish the Cal-OSHA Program. The court has scheduled an expedited hearing on October 19, and any permanent action taken by the Department prior to court action following that hearing would have the effect of preventing the State court from making a decisive ruling in the cases.

For a while, the Department of Labor had remained neutral on this issue. On July 1, it assumed responsibility for concurrent enforcement of Federal standards in private sector workplaces. By not accepting the Governor's letter, the Department was giving the various legislative and judicial actions time to reach some resolution. I fully support that position and believe that it was and continues to be the prudent and proper course to take. It should not be discarded at this critical juncture.

Unfortunately, the Department has abruptly reconsidered its position of neutrality. On September 30, the Secretary indicated that he now intended to accept Governor Deukmejian's letter of intent to withdraw California's plan. If the State OSHA plan were withdrawn, the State court cases could be invalidated. Thus, on September 30, a temporary restraining order [TRO] was obtained in Federal court to prevent the Department from assuming exclusive jurisdiction at this point. The hearing on a preliminary injunction—which would continue the temporary bar—is scheduled for October 19.

My amendment would ensure that the two cases to be heard on October 19 will be able to be decided in the event that the request for a permanent injunction fails.

The Federal OSHA Program has maintained concurrent jurisdiction for 3½ months. There is no pressing need that I am aware of which warrants changing that situation, given that the future of the Cal-OSHA Program is at stake.

California has always been a leader in protecting the health and safety of its workers. The State should have every opportunity to continue that program.

Mr. President, I urge all of my colleagues to support this amendment.

I understand that this is acceptable to both sides.

EXHIBIT No. 1

CONGRESS OF THE UNITED STATES,
Washington, DC, September 18, 1987.

Hon. WILLIAM E. BROCK,
Secretary of Labor,
Washington, DC.

DEAR BILL: We are writing to urge that no irrevocable action be undertaken with regard to the California Occupational Safety and Health Administration program (Cal-OSHA) until California's Court of Appeals for the Third District has had an opportunity to rule on two pending cases in which the Governor's attempt to withdraw the state's approved OSHA plan is being contested. Those cases are scheduled to be heard on October 19, and decisions may come by the end of November.

As you know, by letter dated February 6, 1987, Governor Deukmejian informed your Department that California was withdrawing its approved OSHA plan. Since that time there has been and continues to be substantial dispute regarding the validity of the Governor's action both in the California State Legislature and the courts.

We very much appreciate the fact that the Department of Labor has remained neutral thus far and has not taken any actions that would permanently affect the future of the Cal-OSHA program. Instead, it has assumed responsibility for concurrent enforcement of federal OSHA standards in private sector workplaces.

However, we understand that, because of budgetary considerations and concerns about providing stability in the Department of Labor's OSHA presence in California, you are considering accepting Governor Deukmejian's letter of intent to withdraw. We agree that it is not desirable or practical for the detail of federal OSHA personnel to California on an interim basis to continue indefinitely. However, the appellate court has scheduled an expedited hearing on October 19 in Sacramento of two pending cases and any permanent action taken by the Department prior to that date would have the effect of preventing the State court from making a decisive ruling in the cases.

These cases are not appeals of lower court decisions. Rather, they involve an exercise of original jurisdiction by the Court of Appeals, which, we are advised by counsel, takes a case on this basis only when there is a strong showing by the petitioner and the subject matter is of great importance. The pending cases involve the issues of whether Cal-OSHA may be abolished even though the laws mandating the activities of Cal-OSHA have been neither amended nor repealed and no executive reorganization plan to abolish the state agency has been submitted to the legislature and whether the Governor has the authority to earmark a funding reduction for one particular program.

We would also note that, even though the state legislature was unable to override Governor Deukmejian's veto of the funding for Cal-OSHA, it continues to oppose the unilateral dismantling of the agency. Most recently, on September 11, the legislature passed Assembly Joint Resolution 56—with overwhelming and bipartisan support (by votes of 38 to 0 in the Senate and 47 to 25 in the Assembly)—urging that you continue to refuse to accept the Governor's letter withdrawing the California plan from the Federal Occupational Safety and Health Act of 1970. The resolution further requests that a formal hearing be granted to contest the withdrawal should the Department decide to take action to implement the Governor's request. (A copy of the resolution is enclosed.)

Thus, in view of the upcoming court hearing date, we strongly urge that you continue the Department's position of neutrality by maintaining concurrent jurisdiction over the OSHA Program unless and until it becomes clear that all reasonable efforts to resolve these important issues have been exhausted.

If, however, the Department decides it must take action to implement the permanent federal takeover of the California OSHA Program, we would strongly urge that you favorably respond to Assembly Joint Resolution 56 and grant public hearings on the withdrawal of the California plan.

California has always been a leader in protecting the health and safety of its workers and has the most comprehensive state occupational program. We would greatly appreciate your assistance in ensuring that the state has every opportunity to continue that program and that no irrevocable actions are taken until we know the outcome of the cases before the Court of Appeals.

Thank you for your attention to this most important matter for California's workers. Because of the time sensitivity of this issue, we would appreciate a response at your earliest convenience.

With warm regards,

Cordially,

Alan Cranston, Robert Matsui, Pete Stark, Augustus F. Hawkins, Ronald Dellums, Don Edwards, Esteban

Torres, Barbara Boxer, Edward R. Roybal, George Miller, Norman Y. Mineta, Richard Lehman, Nancy Pelosi, Doug Bosco, Henry A. Waxman, George E. Brown, Jr., Anthony C. Beilenson, Tony Coelho, Howard L. Berman, Mel Levine, Glenn M. Anderson, Vic Fazio, Tom Lantos, Matthew G. Martinez, Mervyn M. Dymally, Julian Dixon, Jim Bates, Leon E. Panetta.

ASSEMBLY JOINT RESOLUTION NO. 56

Whereas, Section 4 of Article XIV of the California Constitution vests the Legislature with plenary power, unlimited by any provision of the Constitution, to create and enforce a complete system of workers' compensation by appropriate legislation, including full provision for securing safety in places of employment; and

Whereas, The federal Occupational Safety and Health Act of 1970 provided for federal jurisdiction over occupational safety and health issues covered by federal standards; and

Whereas, The federal Occupational Safety and Health Act of 1970 encourages states to assume responsibility for the development and enforcement of occupational safety and health standards on issues covered by federal standards by providing up to 50 percent funding of approved state plans; and

Whereas, The Legislature exercised its plenary authority by enacting Chapter 993 of the Statutes of 1973 (CAL-OSHA), for the express purpose of allowing California to assume responsibility for the development and enactment of occupational safety and health standards under an approved state plan; and

Whereas, The Governor, by letter dated February 6, 1987, purported to advise federal Secretary of Labor William Brock of California's withdrawal of its approved occupational safety and health plan, and the termination of the grant awarded to California, both effective June 30, 1987; and

Whereas, The Governor neither sought nor received the concurrence of the Legislature necessary for a decision to be made by California to withdraw its state occupational safety and health plan; and

Whereas, The federal Department of Labor refused to accept the Governor's purported voluntary withdrawal of the California State Plan because the effect and finality of the Governor's action were under dispute in both the Legislature and the courts, and instead assumed responsibility for concurrent enforcement of federal occupational safety and health standards in private sector workplaces pending resolution of the administrative, legislative, and judicial issues within California; and

Whereas, The 1987-88 fiscal year budget provides sufficient funds for the Department of Industrial Relations to carry out its responsibilities under the law, including the enforcement of occupational safety and health standards in private sector workplaces; and

Whereas, The Governor has refused to carry out the statutory mandates to enforce occupational safety and health standards in private sector workplaces commencing July 1, 1987; and

Whereas, The legality of the Governor's refusal to enforce state occupational safety and health law in the private sector is the subject of litigation: Now, therefor, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature, acting for the State of California, memorializes the Secretary of Labor to continue to refuse to accept the Governor's contention that he may voluntarily withdraw the California State plan, and not to initiate federal proceedings to withdraw the California state plan; and be it further

Resolved, That should the Secretary of Labor initiate proceedings to withdraw the California state plan, the Legislature hereby requests formal hearing to contest the withdrawal of the California plan; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Labor and the Assistant Secretary of Labor for Occupational Safety and Health for the United States Department of Labor, to each Senator and Representative from California in the Congress of the United States, and to the Governor of California.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

Mr. CHILES. Mr. President, we have reviewed the amendment and it is acceptable on our side.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from California [Mr. CRANSTON].

The amendment (No. 955) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I thank the Senator from Florida, and the Senator from Connecticut.

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

Mr. WARNER. Mr. President, will the distinguished Senator forbear for just a minute?

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Virginia is recognized.

SENATOR WARNER'S PRESENCE IN THE SENATE AT 8:30 A.M.

Mr. WARNER. Mr. President, if I might state for the purposes of the RECORD, this Senator was here at 8:30 this morning for a meeting of a committee of the Senate Armed Services Committee. I did miss the last vote, and I do not question the timing of it. But I wish to indicate my presence here in this body as of 8:30 this morning.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, I ask for the yeas and nays on final passage.

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

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, we are calling Senators who are known to have amendments, urging them to get to the floor. This bill can pass the Senate this morning, if Senators who have amendments will call them up. If we do not have much success in getting Senators to come to the floor, I will move to go to third reading, and I will ask for the yeas and nays on that motion when the time comes.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 956

(Purpose: To prohibit the use of any funds provided under this Act to the Centers for Disease Control from being used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone homosexual sexual activities or the intravenous use of illegal drugs)

Mr. HELMS. Mr. President, the amendment I will be calling up shortly will offer some assurance that the hard-earned tax dollars of the American people are not to be used to perpetuate the AIDS problem. Specifically, my amendment states that any funds authorized under this act shall not be used to promote, condone, or encourage sexual activity outside a sexually monogamous marriage, including homosexual activity, or the intravenous use of illegal drugs.

Mr. President, this Senator was naive enough at one time to believe that AIDS education meant simply telling people about the deadly AIDS virus. How wrong I was!

About 2 months ago, I received a copy of some AIDS comic books that are being distributed by the Gay Men's Health Crisis, Inc., of New York City, an organization which has received $674,679 in Federal dollars for so-called AIDS education and information. These comic books told the story, in graphic detail, of the sexual encounter of two homosexual men.

The comic books do not encourage and change any of the perverted sexual behavior. In fact, the comic book promotes sodomy and the homosexual lifestyle as an acceptable alternative in American society.

Mr. President, I dissent, and that is why I am here today. These comic

books, widely distributed, were defended by Mr. Frank Lilly, former vice president and a founding member of the Gay Men's Health Crisis, who currently serves on the President's AIDS Commission. Mr. Lilly proclaimed that the comic books are a valid method of educating homosexuals. I do not agree. I think that anybody who would take a look at this material would agree with me. I am restraining myself in describing it. I believe that if the American people saw these books, they would be on the verge of revolt.

I obtained one copy of this book and I had photostats made for about 15 or 20 Senators. I sent each of the Senators a copy—if you will forgive the expression—in a brown envelope marked "Personal and Confidential, for Senator's Eyes Only." Without exception, the Senators were revolted, and they suggested to me that President Reagan ought to know what is being done under the pretense of AIDS education.

So, about 10 days ago, I went down to the White House and I visited with the President.

I said, "Mr. President, I don't want to ruin your day, but I feel obliged to hand you this and let you look at what is being distributed under the pretense of AIDS educational material. Furthermore, Mr. President, this group that produced this book and which is circulating it has received over $600,000 in Federal funds from your administration."

The President opened the book, looked at a couple of pages, closed it up, and shook his head, and hit his desk with his fist.

Obviously, I cannot describe the book in any detail; but for any Senator who is seriously interested in finding out whether I am exaggerating, I will make a copy available to him or her.

What happened when the so-called Gay Men's Health Crisis learned that I was on to their little gambit? "Oh," they said, "Federal dollars are not being used to produce this material."

I said, "Fine. Then, how are the Federal dollars being used?"

Let me tell you, Mr. President, how the Federal dollars are being used.

In 1986—on May 1, 1986, to be precise—the Gay Men's Health Crisis received the first part of the 2-year $674,679 grant to which I alluded earlier. The grant proposal upon which the grant was made laid out in great detail how the money would be spent. Let me read the grantees' statement of the problem:

> As gay men have reaffirmed their gay identity through sexual expression, recommendations to change sexual behavior may be seen as oppressive. For many, safe sex has been equated with boring, unsatisfying sex. Meaningful alternatives are often not realized. These perceived barriers must be considered and alternatives to high-risk practices promoted in the implementation of AIDS risk-reduction education.

Mr. President, this Senator is not a goody-goody two-shoes. I have lived a long time. I have seen a lot of things. I served 4 years in the Navy. I have been around the track. But every Christian, religious, moral ethic within me cries out to do something. It is embarrassing to stand on the Senate floor and talk about the details of this travesty.

And the subject matter is so obscene, so revolting, that I am embarrassed to try to discuss it in sufficient detail for Senators to understand that we have a problem here. I am going to try to do that. Senators will forgive me if I hesitate when I quote from the material.

In session 2 of this project of the so-called Gay Men's Health Crisis, the crowd that got $674,000 from the American taxpayers, session 2 of this crowd's project is entitled "Gay Identity Roles and Sexuality."

One of the session's objectives was to generate gay consciousness and a positive sense of gay pride among participants.

Under the section entitled "Content," the session states that it was intended to dispel certain myths regarding male and female sexuality and gender roles including "(a) heterosexuality is superior to homosexuality."

That is what tax dollars are being spent for and no wonder the President of the United States hit his desk and I hit this podium with the same feeling of revulsion and disgust.

The grant proposal states that the conductor of this session should supervise activities to dispel these supposed "myths", including "exercises designed to overcome male gender role prescriptions." The grant proposal further suggests: "Construction of masculine and feminine gender sculptures—in which—participants take their turns arranging their partner in a pose so that their posture represents a sex-stereotyped posture" with an example: "Strike a pose of a gay man standing at a street corner."

Oh, what a great expenditure of the taxpayers' money.

In session 3 of this great educational effort by the Gay Men's Health Crisis, which received $674,000 taxpayers' money, entitled "Social Skills Development," "activities" included "asking someone for his phone number, meeting someone new at a bar and letting him know you are interested in having sex, and negotiating a contract for safe sex, discussing your sexual limits."

Homework for this session included, if you can believe it, Mr. President, writing a personal sexual advertisement for the publication the New York Native, a homosexual magazine.

Oh, boy. No wonder we have such a stupendous Federal debt. If we are one-tenth as insane in the expenditure of other Federal funds as we are in this: No wonder.

Then, Mr. President, we get to session 5 and session 6 of this great educational effort by the Gay Men's Health Crisis. This is entitled "Guidelines for Healthy Sex." The overall goal, as stated, was "to provide participants with a sexual enrichment program to promote healthy sexual fantasies, emotional responses and behaviors." The behavioral objectives of these two sessions included the ability to "list satisfying, erotic alternatives to high-risk sexual practices; identify erogenous areas of the body,"—and here is where I get embarrassed—"other than the genitals, that produce an erotic response."

Oh, boy.

"Activities" in these sessions included a "discussion of participants' myths and fantasies." One of their self-described myths is it is just as good to be a homosexual as it is to be a heterosexual.

There is no mention of any moral code but the activities in these sessions included, as I was saying, a "discussion of participants' myths and fantasies about safe sex, in dyads, nongenital body massages directed toward the giving and receiving of pleasure, use of safe sex photos as a sexual enrichment tool."

Good Lord, Mr. President, I may throw up.

Now, this crowd said they do not use Federal funds for this or that, but $239,962 of the American taxpayer's money went to fund this program that I have just described.

But that was not enough for them. Oh, no.

The folks at the Centers for Disease Control turned around the following year and gave them $434,717 to do more of the same thing.

Oh, boy, sophomore year, the second-year project.

It included a "Dating and Intimacy Workshop" entitled, "Getting to Know Another Man." This was for participants who found it difficult to meet, open up to and form relationships, homosexual relationships, "where they would feel comfortable practicing safe sex."

I will not consume the Senate's time reading the details of this revolting project. But, Mr. President, you know those little bags they have on airlines when it gets bumpy. If I were to read the sickening details to you, Mr. President, you would need one.

I cannot believe the majority of the American people want this sort of thing, this expenditure of their money. Certainly, I do not.

At this point I cannot speak for any Senator except myself, and my proposal to put an end to this may be roundly defeated on this floor. But I can look in the mirror tomorrow morning and say "By George, you tried."

Some Senators may believe sincerely that the AIDS epidemic has reached such grave proportions that we must disseminate whatever material anybody wants to produce regardless of the content.

I come from a generation where I still flinch when I hear the word "condom" on television, but that is an accepted thing now. But I tell you this, Mr. President, we can talk about condoms and clean needles until we are blue in the face, but until we are ready and willing to discourage and do our dead level best to eliminate the types of activities which have caused the spread of the AIDS epidemic, I do not believe we are ever going to solve it.

Many of the experts, self-proclaimed, tell us that the source of the AIDS epidemic is the AIDS virus. That is like saying that the source of a fire set by an arsonist was the match that the arsonist used, rather than the arsonist who struck the match and set the fire.

Chuck Colson recently wrote something that I agree with. He said: "In all the recent attention focused on AIDS, one important fact seems to have been shoved into the closet." And that important fact to which Chuck Colson referred is the fact that "homosexual intercourse has been and remains the principal vehicle for the spread of the disease."

Now we had all this mob here over the weekend which itself was a disheartening spectacle. But I did not hear a single one of them deny what Chuck Colson said. They do not want us to think about it. They do not want society to think about it. They want to obscure the issue. But the fact is still there.

Monsignor Eugene Clark recently repeated the same message that Chuck Colson offered. Monsignor Clark wrote:

> In fact, the virus-turned-plague has only one source—sodomy. Heterosexuals are infected only from homosexuals, or from heterosexuals infected by bisexuals.

That is what Monsignor Eugene Clark said.

Now, I do not know whether Senators want to face up to the question of whether they agree to that or do not. It is easy to say, "Well, I will worry about that tomorrow." We cannot worry about it tomorrow. We have got to establish some priorities. Yes, I am old-fashioned enough to say moral priorities. We have got to call a spade a spade and a perverted human being a perverted human being, not in anger, but in realism.

Think about it, Mr. President, Monsignor Clark was right. Every AIDS case can be traced back to a homosexual act. A hemophiliac who contracts AIDS from a blood bank has gotten it from a homosexual with AIDS who contributed blood or a heterosexual infected by an infected bisexual. For the prostitute, she got it from an infected man who had had sexual relations with a bisexual or a homosexual. For the drug addict, somewhere along the line the needle has been used by a homosexual or a bisexual man or a heterosexual woman infectd by a bisexual or homosexual. Heterosexuals are infected only from bisexuals or other heterosexuals who have had sexual relations with bisexuals.

So it seems quite elementary that until we make up our minds to start insisting on distributing educational materials which emphasize abstinence outside of a sexually monogamous marriage—including abstinence from homosexual activity and abstinence from intravenous use of illegal drugs—and discourage the types of behavior which brought on the AIDS epidemic in the first place, we will simply be adding fuel to a raging fire which is killing a lot of people. And, as with so many other things, Mr. President, this will take courage. It will force this country to slam the door on the wayward, warped sexual revolution which has ravaged this Nation for the past quarter of a century.

Yes, it will require us to make a moral judgment. I think it is about time we started making some moral judgments and stop playing around with all those esoteric things and saying, "Yes, but." I believe, Mr. President, it is time to draw the line. A lot of lives are at stake, perhaps into the millions when you get beyond the turn of the century.

All right, now, Mr. President, I have an amendment at the desk and I ask that it be stated.

I understand there is an amendment pending; is that right, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I ask unanimous consent that the pending amendment be laid aside temporarily while this amendment is considered.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. Very well.

Mr. President, I hope the RECORD will show that the majority leader and others were exhorting Senators to come to the floor and offer amendments. I have done so and I am willing to have this amendment considered whenever it is in order to do so.

Now, I think the custom has been to lay aside pending amendments so that other amendments could be considered. But that is up to the managers of the bill and I will not challenge their right to object.

Mr. WEICKER. Mr. President, I have no objection if the distinguished Senator from North Carolina wants to go ahead and make the unanimous-consent request to set-aside the low-income energy assistance amendment in order that he might go ahead and submit his amendment.

The PRESIDING OFFICER. Does the Senator from North Carolina make that request?

Mr. HELMS. I am sorry, I did not hear.

The PRESIDING OFFICER. The Senator from Connecticut said that he had no objection if the Senator would move to set-aside the pending amendment.

Mr. HELMS. If I would move, rather than ask unanimous consent?

The PRESIDING OFFICER. It takes unanimous consent.

Mr. HELMS. I see. Well, I just propound my unanimous-consent request again.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from North Carolina's amendment is at the desk. The clerk will report.

Mr. HELMS. I will ask the clerk to read it all, so he might as well get prepared.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 956.
>
> At the appropriate place, add the following new section:
>
> SEC. . (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone sexual activity outside a sexually monogamous marriage (including homosexual sexual activities) or the use of illegal intravenous drugs.
>
> (b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—
>
> (1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and
>
> (2) abstinence from the use of illegal intravenous drugs.
>
> (c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.
>
> (d) The illegal drugs referred to in subsection (a) and (b) includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).
>
> (e) If the Secretary of Health and Human services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—
>
> (1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

Mr. HELMS. Mr. President, 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. HELMS. I thank the Chair. I yield the floor.

Mr. CHILES. I wonder if the Senator would yield for a question.

Mr. HELMS. I will be glad to. Yes, sir.

Mr. CHILES. I think the Senator from North Carolina will understand what we are hoping the information that will be sent out from the Centers for Disease Control will do. We hope it will help to stop the spread of AIDS. That is what we are all about and that is what we are all concerned about.

I think that we recognize that right now the greatest risk of the spread into the heterosexual population is coming from the intravenous use of the needles—intravenous drugs used through a nonsterile needle.

Mr. HELMS. It depends on how far you go back, Senator.

Mr. CHILES. I am not talking about where it starts. I am talking about today. That is what I hear from the experts and I tried to listen to them, trying to determine the money that we are putting into this bill. I think we have listened across the spectrum to the doctors and scientists and people and they say that that greatest risk, in many instances, is a drug user. Let us say it is a male and he uses an infected needle. Perhaps in his normal relations with his wife he infects his wife; or in other relations.

Then a female partner is infected and then the disease begins to spread into the heterosexual population. That seems to be the way that it is spreading and the greatest risk.

We have more—well, not more—we have a third of the children infected with AIDS in my State. If there is ever the innocent of the innocent it is these children that are infected.

Mr. HELMS. Excuse me, what did you say?

Mr. CHILES. One-third of the children infected in the country, I think, or the third highest State, happens to be my State.

In many instances, what they have told me in a hearing that I held was until the child was diagnosed the mother did not know she was a carrier. In many instances she was a carrier but had not come down with the symptoms. The first time they knew was from the illness of the child.

In other cases, the mother and the child have been infected and the mother has abandoned the child in many instances. She has the disease herself. She is fighting it. She is trying to deal with it.

Obviously, this is something that when I think about these children, and the plight of them, it makes me feel very terrible about how they are infected.

In this bill we are trying to provide some money into research into AIDS of children, trying to see if it is something like an RH negative/positive thing, if there is a way of inoculating during the pregnancy—not inoculating, trying to keep this blood from passing back and forth during the pregnancy.

But again, as far as a threat to general society, it seems that this is one of the greatest threats.

One thing about an addict, that is a person who is not in control, basically, because they are addicted on drugs. I guess a lot of these would be heroin addicts. We all know that they are not rational people. They are not people that you can just go say: "Hey, quit using the drug. This could hurt your health."

One, they are addicted and, two, we are not just worried about them, we are worried about what stems from that.

A group of doctors said that we ought to start giving methadone out because that would be better. They could take it by mouth and not take it by needles.

Boy, I had a hard time with that, to tell you the truth; that, in effect, the Government is going to kind of buy methadone to put that out.

The other thing, of course, is to try to find a way to tell these people do not use a dirty needle.

I do not think we are trying to condone the use of a needle, you know; or that you ought to take heroin or anything else. But I think we are trying to protect that mother and/or that innocent baby; and our general population. Because this is the way it spreads. Evidently it spreads sort of this way. It could have spread another way. But it can get into prostitutes this way. But I think what I find is a lot of people are saying: Let us stop this thing from spreading. Let us not get it where it can get into anywhere that I am concerned. Of course, through that heterosexual thing, that is really one of the dangers.

So what I wanted to ask is the language here that talks about promote, encourage—I do not have any problem with that. Nothing the CDC is doing should be promoting and condoning—but I am worried about how they might read that or how that might be read as far as being able to put out information: Do not use a dirty needle. Because I think we decided that that is something, trying to get that word out there is something that we definitely need to do.

I just ask the Senator.

Mr. HELMS. Let me first state the Senator has not said anything with which I disagree. I have the same sensibilities about the children, at least as much: the innocent, and so forth. But in no way should this amendment inhibit any sensible person, administrator, in deciding how to get out true and legitimate educational material.

I had the clerk read the entire amendment because I anticipated a question of this sort. I know the Senator is perfectly sincere. But it simply says no funds, et cetera, shall be used to provide AIDS educational information or prevention materials—and activities that promote, encourage, or condone sexual activity outside of a sexually monogamous marriage, including homosexual sexual activity.

If the Senator will put in a quorum call, I will be glad to show him the material to which I was alluding. Any administrator who says: Oh, mercy, this will inhibit me in trying to decide what kind of information we are going to distribute at the cost of the taxpayers, I would say: Bye-bye Birdie. We do not need you. If you have got no more sense than that, get rid of him and get somebody who does.

As for the use of illegal intravenous drugs, the Senator is exactly right. But you do not need the kind of sessions to which I referred, or the kind of literature, which puts a nice little feeling that, well, use of drugs is really all right, let us just use clean needles. You know?

I think this is a moral question, and I will be accused of trying to impose my morality on somebody else. If someone wants to say that, that's fine. I would just hope that others might come to have the same feeling. But in no way, and I will not be much longer in answering the question, should this or will this amendment inhibit anybody in terms of preparing and scripting the kind of educational material that the distinguished Senator from Florida, and I have known him a long time, would be pleased to see.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, first, I would like to pose a question to my good friend from North Carolina. That is, the comic book he refers to that was published by the Gay Men's Health Crisis, was it funded with Federal funds?

Mr. HELMS. I said it was not, and then I went into what Federal dollars are used for. It was an example of the attitude of this organization, I said.

Mr. WEICKER. In response to the distinguished Senator from North Carolina concerning the attitude of

this organization, I have seen examples of attitude as it relates to "straight sex," and it is material that none of us would want to see or have our children see. Yet, what we do not do is associate that with something else or some other individual or some other effort. I know exactly the material that the Senator from North Carolina is referring to. I have seen it. I think it is demeaning in every way, as I think that some materials that are out there on the newsstands are demeaning in every way.

But what I do not do is to establish an association of guilt here in order to demean an entire class of persons. Indeed, in this particular instance, a nation very much at risk.

Let me present a few remarks, if I might, on what confronts us here.

I know of no one who is standing up here and advocating any particular course of personal activity, and I suppose that it would be very easy to get drawn off into an argument as to what is appropriate and what is not appropriate sexual activity.

Neither I nor the Nation has the time to do that. We are confronted with an epidemic, the likes of which this world has never seen, and we do not have time to get into philosophical, academic, or moralistic debates. We better do exactly what we have been told to do by those of science and medicine, which is, No. 1, put our money into research and, No. 2, put our money into education.

This is what we have done traditionally. Whatever the ailment or the hurt was, we did not ask how you got it. If you hurt, if you are down, if you are sick, this Nation traditionally has gone to your side without asking any questions.

If we are going to get into the business of moral judgments, then maybe we should ask why we spend money on research insofar as it would help those who have cirrhosis of the liver, which comes from drinking.

Or what about the billions of dollars which have been spent on other sexually transmitted diseases—gonorrhea, syphilis. I can go down a whole list, of Federal health research activities, costing in the billions of dollars. When did we ask any one or when did we try to pass moral judgment on those who acquired one of these particular diseases?

Maybe we should ask the question of those who smoke, why should we put our money into cancer research.

I am not equipped to pass moral judgments on my neighbors. I go by a very simple criterion: If somebody is ill, then they deserve the help of their Government. Period, over and out.

I am not here trying to protect a particular segment of our population. That is not the issue before this body. The issue before the body is how do we protect the United States of America and, indeed, the world. That is the issue. Either you do it or you do not. Certainly, one of the great high-risk populations is the homosexual population.

There is no point in driving them underground again. There is no point in ignoring what goes on within that community because ultimately it affects all of us.

It is not easy to stand up in the face of language such as this and oppose it, but I do.

Let me go to the language of the amendment itself in order to dramatize what is at issue. First of all, is there anybody who believes the Centers for Disease Control, one of the great medical bodies in the world, that has saved countless lives both within our Nation and throughout the world—is advocating homosexual practices or intravenous drug use? Forget the homosexual practices. What this amendment says is:

> Notwithstanding the matter under the heading "Centers for Disease Control", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone sexual activity outside a sexually monogamous marriage (including homosexual sexual activities) or the use of illegal intravenous drugs.

Well, forgetting the homosexual aspect of it, does anybody believe, in other words, that the Centers for Disease Control are out there advocating the use of intravenous drugs?

It is demeaning to a great body, a great institution, one that this Nation should take enormous pride in, the Centers for Disease Control. They are not out there to advocate any particular form of sexual behavior or advocate intravenous drug use.

What they are there to do is to be part of a team to get on top of this epidemic and to rid our Nation and the world of it.

This education process has been monkeyed around with long enough by this administration. This subcommittee over 6 months ago allocated $20 million requested by the Centers for Disease Control for an educational mailer to be mailed to every household in the United States. They wanted the money reprogrammed. We did not do that. We gave them $20 million to send an AIDS mailer to every household in the United States. That is yet to be done. It is yet to be done not because of anybody in the Centers for Disease Control, or not anybody in Secretary Bowen's office, but because the philosophers in the White House decided they did not want a mailer to go to every household in the United States. So the education effort is set back.

Do not worry about them advocating any sort of activities as listed in this amendment. We cannot even get the most basic education out.

Yes, I want my children to know exactly what causes AIDS. We will all be sorry later on, if we do not tell them now and they contract the virus because they will die. So every single fact should be out there on the table now, and education, indeed, is the most effective weapon we have against the spread of this virus.

We do not yet have the chemotherapy. We do not yet have the vaccine. These are years off. All we have at hand is education. We know a great deal about the virus. We know about how it is transmitted. And every piece of information within the purview of the Centers for Disease Control, the National Institutes of Health or any other medical body ought to be made available to the American people.

Nobody is asking for any moral judgment. The fact is the homosexual population is a high-risk population both as to itself and as to others, and they had best educate their own population, and indeed, they have because the incidence of AIDS among the homosexual population is going down while the incidence of AIDS within the intravenous drug users is going up. The main problem, as alluded to by the Senator from Florida, is the intravenous drug user at this stage of the game, not the homosexual.

I have stated time and time again on the floor the importance of our responsibility in this matter. I wish I could say that leadership emanated from the executive branch of Government. It has not. Indeed, I am free to say on the floor of this body that the specific recommendations and advice of those of scientific and medical background within the administration has been overruled time and time and time again. Whether that advice has emanated from the Secretary of Health and Human Services, whether from the CDC, whether from the NIH, whether from the Surgeon General, the best medical-scientific advice is not being followed by the executive branch. But Congress to its credit, this body to its credit has in effect assumed the mantle of leadership in the fight against AIDS.

That is terribly important, No. 1, in terms of eradicating the disease, but it is also important that the people of this Nation understand there is a leadership that leads us toward our best ideals, toward our best instincts, and that we not wallow in fear and that we do not moralize, we do not point our finger at our neighbor when he or she is hurting. That is the leadership that has come off this floor. Long before AZT was declared effective we voted the funds to get it out there, to prolong life among those who were afflicted with AIDS. Long before there was any request for adequate funding

for research into AIDS, this body for 3 years straight has doubled the appropriation for AIDS research.

It is this body in its budget that is now on the floor that has given meaning to preventive education by providing adequate funding for education of all our people, particularly our children, on the matter of AIDS. The leadership has come from the Congress during a time when the amounts requested and the direction given by the executive branch has not been there. Indeed, the latest problem is the two men of medicine, Dr. Mayberry, of the Mayo Clinic, and Dr. Myers, the Public Health Service Director of Indiana, that were heading the AIDS Commission, resigned at their inability to have science overcome philosophy within the Commission.

I know the temptation of an amendment such as this. The temptation is for us to go ahead and duck. We do not want to be accused of supporting materials that are referred to in this comic book, even though they were not paid for with Federal funds, as testified to by the Senator from North Carolina. To lay that at the doorstep of the CDC is like me laying every one of the pornographic magazines out there on some other agency's doorstep.

The comic book has nothing to do with the issue at hand. Nobody is defending that material and yet that can be the implication when a year from now people see a dry voting record with nothing associated with it: "Aw, you were for going ahead and using Federal funds to advocate intravenous drug use and homosexual activity."

The reason I am standing here is because I do not want this Nation to take its eye off the ball so far as what needs to be done. That is a very simple, direct course of action: education and research.

What kind of a nation have we become where neighbors burn down somebody's home because the family has three hemophiliac children with AIDS? What kind of a nation is it that does that? And this has happened in several other places in the Nation. Fortunately, the good citizens of the State of Florida and the city of Sarasota have shown what this Nation is all about in welcoming those kids with open arms and taking care of them. We have had similar problems in the State of Connecticut. But what have we become? What have we become as a nation where even our children hurt and instead of doing anything about that hurt we try to hurt them more?

I do not understand that, and I am not going to be part of a national leadership that understands that. I am certainly not going to compound the fear by passage of these types of amendments. Americans can be proud of the Center for Disease Control and we can be proud of ourselves as long as we go ahead and direct our money, our resources, our energies, and our thought process toward ridding ourselves of AIDS in the only ways it can be done. Any sort of an education process that excludes a part of the population, in particular a high-risk population, is not the educational effort that the crisis deserves. Any educational effort that does not reach every individual at home and tells all, is not the type of response the crisis deserves.

Again, I repeat, for the problems that have been caused in this Nation by particular types of activity, whether it is drug use or homosexual activity, never before have we rationed our commitment to the cure based on a particular set of values or a particular lecture in morals. I heard the term "God's punishment." I do not know about "God's punishment," but I know what the American response ought to be to a disease. Doctors will tell you this is by far and away the most complex organism that has ever confronted medical science. It is without question the most deadly. And the statistics continue to climb. Those statistics, I might add, are clearly departing from the homosexual and going into the intravenous drug user area.

Those statistics now are encompassing the heterosexual. Hopefully for the hemophiliac, those statistics are going down as we perfect ways to make sure our blood supply is safe.

I oppose the amendment. I am perfectly satisfied to sit down, and work with the chairman of the committee and the Senator from North Carolina on finding alternative language that is acceptable to all Members.

But I want the record to show, because my colleagues are going to be put to a vote on this matter, if nothing changes, that those who vote against this amendment are not deficient morally. Indeed, the greater morality on this occasion is love of one's neighbor. To vote against this amendment is to vote against fear, to vote against this amendment is to vote against words, and for the deeds of education and research in which we have our only hope.

We have seen, over the past several years, the fear on the faces of those dying from AIDS. We have seen it in our children, and that probably is the most heartrending.

I have seen it personally with a good friend, Congressman Stewart McKinney, who died of AIDS a short while back. I have seen it in the faces of those that I broke bread with just a few nights ago in this city. Yes, I have seen it in the face of those who are dying and perhaps in their petitioning to their Government. Although they may do so in ways that many of us might deem objectionable, they have the right to petition their Government just like anybody else. Reflecting on the forces of death among old, young, and those that were the genius of this Nation, I just do not understand how we can respond but in a way that at least gives hope to the future. That is what I look upon as my job on the floor of the U.S. Senate. I do not have the answers to what anybody did wrong. But I know that I can have a part of the answer to the hope that something is going to be done right.

This amendment is not hope. It is trash.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. KERRY). The Senator from North Carolina.

Mr. HELMS. Mr. President, I listened with interest to my colleague from Connecticut [Mr. WEICKER]. My only problem as I listened to him I wondered whose amendment he was debating. He certainly was not debating the one pending. My amendment is written I think with very clear English language. It certainly is with no lack of sympathy for the people, particularly the children and hemophiliacs, who are afflicted as a result of the AIDS virus that I propose my amendment. So frankly, I do not know what the Senator is talking about. He has his sympathies. So do I. But I am simply saying that let us get the information out about intravenous drug use. But let us get the right information out.

I recall some weeks ago on this floor I was excoriated to a certain extent because I suggested it was time to begin broad testing for AIDS. I still believe that.

The Senator mentioned for example—I believe it was the Senator from Florida in this instance—the case of a wife who was infected unknowingly by her husband. If I ever heard an argument for AIDS testing, that example is it.

But the point is, Mr. President, that this Senator sees no way that the situation is going to be improved as long as groups which advocate homosexuality, which as Chuck Colson and the various others have pointed out, is the original source of the AIDS virus, and in every known case insofar as the information available to me. Unless we come to grips with that, we can talk about how sympathetic we are, how compassionate we are, and how much we want to solve the problem. But we are running down a blind alley.

For example, a study in northeastern Ohio, which I have in my file, involved 303 homosexual men, and it stated:

> We have concluded that educational efforts on safe sex education in our areas have resulted in clinically meaningful behavior modification in only a small segment of the socially and sexually active homosexual community.

The study found that only 28 percent practiced totally safe sex—whatever that is—among homosexuals. Seventy-one percent persisted in some activities that have been clearly described as unsafe.

Then there was a study made in Pittsburgh about the use of condoms by 503 homosexual and bisexual men, showing that knowledge of safe sex did not stop the practice of risky behavior and what the report called underutilization. The report further said it is probably not related to a lack of knowledge. The researchers, in any case, concluded that knowledge of this business of safe sex—whatever that is—did not prevent most men who practiced the most abhorrent kind of sex from engaging in unprotected sex.

With regard to nonsexual transmission—and I am addressing the point the distinguished Senator from Florida raised—intravenous drug use—I confess that I believe it is absolutely important and absolutely essential to set a strong public policy that discourages rather than just merely recognizes, let alone encourages, illegal drug use. There is no difference of opinion between this Senator and Senator CHILES on that point.

He said we need to get out information about the perils of using so-called dirty needles. He is exactly right. But more importantly, we need to get out information to encourage illegal drug users to get out of the business of using any needles at all. That is where we are lacking.

Mr. President, some Senators want to compromise with a moral stand because it is so often said that we talk too much about morality. I say to the Senator we can never talk too much about morality. We are not going to solve this problem or a lot of others in this country unless we get that through our heads.

The pending amendment, Mr. President, I repeat for emphasis, does not propose to prohibit and does not propose to limit the ability of the Centers for Disease Control to publish materials or contract for research or otherwise involve itself in the scientific research necessary to confront the AIDS epidemic head-on. If I make no other point, I hope I can make that one about this amendment.

What the amendment does is to propose that we ensure that any money spent for such purposes is not spent in such a way that even comes close to condoning or encouraging or promoting intravenous drug use or sexual activity outside of a sexually monogamous marriage including homosexual activities. That is what the amendment requires. That is all the amendment requires. It does not prohibit legitimate scientific AIDS research by the Centers for Disease Control.

Similarly, Mr. President, the pending amendment does not—I repeat for the purpose of emphasis, does not—prohibit its research from ultimately benefiting homosexuals and intravenous drug users who are the victims of AIDS. Such a suggestion is absurd. What the amendment provides is that no money provided under this act may be used to condone, encourage, or promote the activities which have caused and are perpetuating the spread of the AIDS virus. We either face up to that point or we do not.

As for the comic book, sure, that organization that received nearly $700,000 of the taxpayers' money proclaims that it did not use Federal dollars for the production of comic books.

That is sort of like the Baptist church to which I belong: Some of the most lengthy deacons' meetings I have ever attended were on matters involving the expenditure of funds proposed for the church. You would have one crowd that wanted to buy a new chandelier; another crowd did not even know what a chandelier was. Finally, the resolution was made that no money from a member of the church would be used for the chandelier without his consent. So they juggled the funds. And who knew which dollar went for what purpose? That is the way this crowd operates, this crowd created by the President's appointees to his AIDS Commission, the crowd that got $674,000. It is a shell game.

I remind Senators that earlier I stated in detail how Federal dollars have been used by the gay men's health crisis, an enormous amount of Federal funds.

So Senators can vote up or down or vote to table my amendment or whatever, but I do not retreat from my belief that we ought to take a stand on the fundamental questions and stop this business of saying, "Oh, I'm more sympathetic to people with AIDS than he is. He wants to stop scientific research." I do not. "He wants to stop helping people, infants or otherwise, who have the AIDS virus." I do not.

I want that perfectly clear. I just want the American taxpayers' dollars to be spent in what I believe to be the appropriate way and a moral way, and I do not apologize for that, if that is the accusation against me.

Mr. WEICKER. Mr. President, will the Senator yield for a question?

Mr. HELMS. I am glad to yield.

Mr. WEICKER. As I read the amendment, it says that notwithstanding the matter under the heading "Centers for Disease Control," none of the funds made available under this act to the Centers for Disease Control should be used to provide AIDS education, information, or prevention materials or activities that promote, encourage, or condone sexual activity outside a sexually monogamous marriage. Under the Senator's interpretation, would that prohibit any advice suggesting the use of condoms?

Mr. HELMS. I say to the Senator that I feel that the education ought to stop before that point. It is useless, as I have just stated about every study I know about—even if the center wants to do it and even if the center succeeds, the study shows promoting condom use does not work.

Mr. WEICKER. In other words, it could be interpreted, under the amendment, and were the amendment to become law, that the use of condoms could not be advised in any Federal publication.

Mr. HELMS. If it condones or promotes or encourages—and the words after that "if" are very important.

I cannot stand here and put my imprimatur on any kind of information, nor can the Senator from Connecticut. I am just saying that when we get to the point that we are keeping in business, with Federal tax dollars, organizations that put out the kind of garbage to which I alluded earlier this morning, then we are not on the right track.

Mr. WEICKER. I am going to try, in my remarks, to go to each category. We are talking about sexual activity outside a sexually monogamous marriage. We are talking about extramarital sex or premarital sex, however you want to put it.

Under the Senator's amendment I gather any Federal publication could not suggest the use of condoms; otherwise, it clearly could be interpreted as condoning that type of sex.

Mr. HELMS. I have to give the same answer I gave. The amendment is very clear. I hope it is clear in its language. I will have the clerk read it again if the Senator would like. He has it before him.

Mr. WEICKER. So that we can establish the floor debate, which is the legislative history on this, in other words, is the Senator's answer yes, that it would be perfectly appropriate to include condoms as one aspect of the educational process?

Mr. HELMS. The Senator has to tell me in what context he is talking about.

Mr. WEICKER. In the context of extramarital or premarital sex or whatever as if being an assist in the prevention of any sexually transmitted disease?

Mr. HELMS. Is the Senator really talking about homosexuals?

Mr. WEICKER. No. I am going to get to that in a minute. I am talking about the Senator's amendment, "sexual activities outside of sexual monogamous marriage." I guess we are talking about a very sensitive and I might add at-risk population in the main being our young people. In other words, it would be improper were this amendment to pass to in any way suggest the use of condoms. Let us all assume we are going to advise absti-

nence. Let us all assume we are going to advise no sex before marriage. Let us make those assumptions.

But let us also make the other assumption, that the majority of sexually active young people in this country are not going to heed our advice.

Mr. HELMS. I do not believe that. I think more of our young people than that. Those are attacks on the majority of our young people.

Mr. WEICKER. Let me say to the Senator the statistics the Senator likes to cite. In fact there is a large at-risk population and it is engaging in premarital sex, extramarital sex. I do not care however the Senator wants to go ahead and put it. This is not the homosexual population.

Does the Senator deem it proper as a matter of Federal advice to have as a part of that advice the use of condoms to prevent sexually transmitted diseases?

Mr. HELMS. As I said earlier and I have to repeat again, you have to start earlier than that in terms of the kind of education that is going to do any good at all. I have already quoted the findings of the studies. Even if I would say, "Yes, go right ahead, just dump it all out, talk about condoms," so forth and so on, it still is not doing any good because the people who are spreading this disease do not pay any attention to it anyhow.

Mr. President, on another point, I think we need to do some AIDS testing on a broad level and unless and until we get around to that and stop talking about all of this business of civil rights, and so forth, we will not stop the spread of AIDS. We used to quarantine for typhoid fever and scarlet fever, and it did not ruin the civil liberties of anybody to do that.

The Senator himself has said that this is the worst plague threatening this country in the history of the world. I think he is right about it.

So what are we going to do about it? We cannot pussyfoot around the issue. We are either going to do something effective and practicable or not.

And I say that you cannot do it unless you start from a strong moral base, and condemn me for that if you want to, but that is the way I feel about it.

Mr. WEICKER. If the Senator will yield, I have a book here that has been put out by the U.S. Department of Education under the auspices of the man who agrees more with the Senator from North Carolina than he does the Senator from Connecticut, and the statistics here, I think, are rather interesting, and this is Secretary Bennett's book.

Statistics show that sexual activity increases dramatically during the teenage years. By age 15, 16 percent of boys and 5 percent of girls in the United States have had heterosexual intercourse at least once. By age 17 these rates almost triple for boys and increase five times for girls. By age 19 three-quarters of all boys and almost two-thirds of all girls have been sexually active. The incidence among teenagers of homosexual activity, the most common mode of transmission of the virus, is not known.

Research also shows that most teenagers are not using condoms that provide some, but by no means complete, protection from the AIDS virus.

In a 1986 survey of 1,000 teenagers, 53 percent of sexually active teenage boys did not use condoms.

Increased sexual activity among teenagers contributed greatly to the high rates of contracting such sexually transmitted diseases such as gonorrhea and syphilis. Indeed they have a graph in here that shows the percentage of boys and girls 19 years of age who had heterosexual intercourse. The graph shows that for boys, it goes from around 15 percent at age 15 to 80 percent at age 19 and for girls from around 5 percent at age 15 to about 65 percent at age 19.

I would suggest you have a large probelm here insofar as the heterosexual young community is concerned.

Mr. HELMS. I agree we have a problem.

Mr. WEICKER. When we start talking using words that can have very broad interpretation such as condone, promote, I can see exactly what is going to happen. You are going to be limiting the dissemination of knowledge, just as indeed with the other population referred to in the Senator's amendment, the intravenous drug users. Clearly under the amendment, methadone treatment or alternate treatments of drugs could not be suggested in any educational program by the CDC.

So what I have tried now to focus on are two other populations, populations other than the homosexual population. And obviously this is going to be a lesson in morals to the drug user and to the youngster. And it seems to me that what I want to do is to make sure that this individual does not get AIDS or does not get gonorrhea or does not get syphilis, and I cannot do that if you are tying my hands behind me insofar as what can be disseminated. I would suggest to you if you have any confidence at all, maybe you can say I do not want LOWELL WEICKER going ahead and writing the educational pamphlet, or I do not want LAWTON CHILES, or you to pick anybody you want, but the Centers for Disease Control and the National Institutes of Health are the medical experts in this Nation, along with the Surgeon General. It is the Surgeon General, who I might add to my good friend from North Carolina, was an eminent conservative, and a man who gets out there and tells it as it is from a scientific point of view and all of a sudden he gets in disrepute. I am just trying to say to the Senator on the matter of knowledge, that knowledge, has to be transmitted.

Again, I might be able to work around this with the Senator from North Carolina were it not for the fact that if the knowledge is not transmitted these people are going to be dead, dead. Tell them everything and you better tell it now and hopefully if you do tell them, if you do tell them everything, the very matter which the Senator from North Carolina raises, that is, for example, one's behavior, will be corrected by the consequences that ensue. Rather than any moralistic lecture, I think a scientific one is in order.

So I just point out the two aspects of this would clearly, clearly restrict the Centers for Disease Control in addressing the problem as among the heterosexual population, especially the young population. The Centers for Disease Control would be limited from addressing the drug population. Insofar as the homosexual population is concerned, I addressed my comments to that, but nobody is advocating a particular course of behavior.

But what you cannot deny is that among the homosexual population this is an enormously high-risk group and what you do not want to do is to in any way deny them the information which prevents the spread of the disease within their community.

So it is a matter of knowledge now and what that knowledge is to consist of, and that really is the essence of the debate here.

I do not know what promotes the hesitancy or the nervousness on the part of the Senator from North Carolina as to what the Centers for Disease Control will do but clearly it is important that we reach all these communities and reach them in the fastest possible time with the most accurate information.

I might add, in terms of information, probably there is no better educated community than the homosexual community. At this juncture, I worry somewhat less about that community, which has a network of information that probably will assist in halting the disease, as I do these other populations, our young people, and the drug users. And, yes, I do fear that anything short of total information means unnecessary lives lost.

Mr. CHILES. Mr. President, we are talking about new information and we are talking about information that is going to be disseminated by the Centers for Disease Control. So we are talking about information that is going to come out of the medical expertise of this country.

And it is the same area of information or the same Centers that helped us when we had Asian flu. We did not

know what in the world it was or where it came from. The same thing with Legionnaires' disease. A lot of things that have sprung up.

They help us with other diseases. They tell us about the vaccinations and inoculations that are necessary for our children. They tell us basically how much we should be spending. And, over a number of years, it has not been enough and we did not do enough in there.

But basically what we are talking about in the Centers for Disease Control are people that are medically oriented. They are not the keepers or the guardians of the morals of this country. They are dealing with it from an aspect of how do you prevent the spread of disease, plague, pestilence, any kind of epidemic in the country. And we call on them immediately when there is any kind of problem. Information is sent to them in this regard.

So now we are talking about getting out information. And, of course, we want that to be done for the best way to stop and prevent the spread of AIDS. That is what we are about. I think that is what the Senator from North Carolina is about. I know that is what the Senator from Florida is about.

Again, as the Senator from North Carolina is saying, I do not want that information, even though it is preventing the spread of disease, to have something more than that and to be promoting, to be accentuating a lifestyle or an activity which we do not agree with. And it should not be used in that way. That does not trouble the Senator from Florida. I do not think the Centers for Disease Control should be involved in that. That is not their role at all.

And I want to go back and say, because the Senator from Connecticut talked about the $20 million that we put in on the supplemental, that the Senator from Florida was the one that came up with that. It was a request from the Centers for Disease Control. They said, these same centers we are talking about, "We need to put out a pamphlet into the hands of every home in this country. Every family should receive one clearly setting forth how AIDS is spread and what you can do to prevent it."

Now, Mr. President, based on that, there again they were the group that was supposed to help us in this country. We spend a lot of money putting experts there. The Congress felt, "All right. We should do that."

We put that money into the supplemental under the Senator from Florida's suggestion. And what happened to that money? It was not spent that way. It was not spent that way. The request filtered down and, somehow, I do not know who made the decision that it should not be done, but at that time it was considered, "Well, maybe this is going to upset somebody if we send it to the homes, you know, how AIDS is spread." I do not know the reason for it, exactly.

But instead of that, a PR firm was hired and a pamphlet was designed. I think they printed 5 million pamphlets and they are going to put some of those pamphlets in drugstores and they are going to leave them around the drugstores and a few other places and you are going to be able to write for and send for one of those pamphlets if you want.

Now, I do not happen to think that that is right. I think, again, we have something that is a plague like this and we see how many lives can be lost. But not only how many lives can be lost, but also how many dollars it is going to cost this country. You know we really ought to think about that because it is one thing to say, "Well, the only people that are getting AIDS are people that should change their lifestyle. So it is their problem."

It is our problem when you look at the cost. My gosh, the cost on that now and what those costs escalate to be are astronomical. And that is moneys that we ought to be spending for education, that we ought to be spending to promote our trade activities, for research and development, for defense, and for everything else that this country needs to do. We should not be letting that money get away from us in that way. But it looks like that is in the cards unless we can do something to prevent the spread.

Now, we have not been very successful yet in targeting or getting information to intravenous drug users. Somehow they do not seem to get the message. We do not see much change in their activity. And I guess you have got to realize, when you really put your mind to it and think about it, these are not rational thinkers. They are not going to the drugstores and getting the pamphlet. They are not sitting down and discussing in a nice way what they should be doing. I guess they are people that, by the very virtue of the fact they are an addict, they are not in their right mind or they would not be addicted to heroin. They would not be involved in it to start with.

But, at the same time, when we recognize that this is the group that, in turn, is infecting wives and/or girlfriends, which are infecting children which is causing this to spread into the heterosexual population—that is a word we like to use all the time. I like to talk about heterosexuals. That is getting into my neighborhood. That is getting into where it can be involved with people that I know and love and care about, and that is where it is getting to children. And again, as I say, these children, when you think about a child as an AIDS victim, there is just no reason in the world that that should happen. And so we have to try to do what we can to prevent it.

I think we want to be careful. I know I do. I do not want to restrict something that is going to prevent somebody in the Centers for Disease Control who is saying:

> Wait a moment. I am going to lose all of my funds or I am going to lose my job or something else if I put out information that says you ought to use a clean needle or if I put out information just saying: "here is the way you catch AIDS. If you are involved in these activities, if you get involved in them, then you could be in danger yourself and endanger others.

I just do not think we want to do that. So I think that is why we are seeking a way here to say, "Yes, the center should not be promoting, should not be sending things out that do promote. They should not be doing that." Absolutely not.

But, on the other hand, what are they? They are a body of medical information and, at the same time, we do not want to restrict them from using their medical expertise to tell people: "This is what you have got to worry about and this is how you catch it. And this is how you cannot catch it. This is how you can prevent it."

And much as I wish we could write down no one will use drugs, period; and no one will use drugs that are used by a needle, we just know that is going on. And now, as a side effect from that, if they are using that dirty needle, we know that that is the way that they are spreading this to the heterosexual population, to the population of males and females where it can mix and where it can spread. And that appears to be the danger that you could really realize an epidemic in this country.

I guess you can say as long as this disease is confined among homosexuals, no real danger. It is bad, but they should realize this.

But now, when we are dealing with the other side of this coin, where children can catch it, where we know that the cases can multiply. The Senator from Connecticut has read these facts. Again, you have to look at them, in the face of the extramarital sex. They are out there. We know they are occurring.

Again, we are not talking about promoting them in any way. But should not those people be warned? Should not the drug users be warned? We have in this bill to require every home to be sent this information. What we tried to tell them to do last time, as I say, we are spelling out that they have to do it now. All of these things I think are very necessary if we are going to get this out.

So, I would hope that we would be able to put something together that——

Mr. WEICKER. Would the Senator from Florida yield?

Mr. CHILES. I yield.

Mr. WEICKER. I would hope that we would have the opportunity to sit down and discuss this matter before any votes take place because I think there might be some meeting ground.

But again I am quoting from the latest publication of the U.S. Department of Education and the graph that they have on page 8. Their source is the Centers for Disease Control:

"Sexually-transmitted disease cases reported 1985. Distribution of persons with syphilis or gonorrhea, by age.

"Syphilis or gonorrhea, 25 percent, 10 to 19 years of age; 37 percent, 20 to 24 years of age; and 38 percent, 25 years of age and older."

Does anybody not believe that with statistics such as this on syphilis and gonorrhea that it is only a matter of time before this population is going to be confronting AIDS?

That is why the word has got to get out and it has got to get out completely. What is at issue in the amendment, and I want to bring this to the attention of my colleagues—but please understand there are three parts to this amendment. Only one part deals with homosexuals, another deals with drug users and the other deals with the heterosexual population.

You are denying, by virtue of this amendment, full knowledge to both of those populations.

Unfortunately, as has been alluded to by the Senator from Florida, there are certain matters that are more overwhelming than speeches by Senators on this floor, one of them being sexual drives.

Regardless of what any Senator says to this population, it is there. I suggest we address knowledge to that drive in order that it be channeled in the right direction. Not to keep it in ignorance. That will only compound the disease.

Again, what I have to repeat in the course of this debate is that one mistake and you are dead. We do not have a lot of time. Indeed, we are already wasting time. Right this minute that education should be going out to all corners of the United States and we are not doing it.

The time has come to go ahead and make sure that we save the lives that we can save through education. And, yes, drug users have to know that until you do get cured, et cetera: there are alternatives. Whether it is methadone, or clean needles, they must be told. Because the problem with that drug user is, that he is not going to only take himself down but he is going to take his neighbors down.

The problem with this amendment is it could be interpreted that if I suggest methadone or clean needles, I am encouraging drug use. I am not. I am trying to get him off his habit and I am trying to save his neighbors.

Or if I suggest a condom to a young person, under this amendment, I am, therefore, advocating premarital, extramarital sex. I am not. I am trying to save that youngster from contracting a sexual disease and probably AIDS—and taking his young classmates down with him. That is the issue.

I know most people, and I, as you know, have a great faith in what science can do. But for the time being, science does not have the answer. We are working toward it.

The only answer is education and if you are going to censor that education you have no solution.

I urge, my colleagues that are not on the floor, but are listening, to understand what is here. This is a very emotional amendment. But understand you will deny that education to the highest-risk population, the homosexual community, but you will also deny it to the other high-risk population, drug users, our Nation's children.

I cannot put it any better. Yelling louder, as I am now, will not make the point any better than, I hope, the logic that I put before the body. This is not advocating extramarital sex or homosexuality or drug use. It is telling the public exactly, No. 1, how one gets this disease and, if for some reason you cannot be overwhelmed by the speeches of the Senator from North Carolina, that there are other ways.

My friend from North Carolina is a very eloquent individual. Certainly, I will yield the floor now, but might I suggest that we do have a quorum call in order that we might sit down and try to discuss language here, potential language changes because I can assure my colleagues that this amendment is of enormous importance to the bill.

I might add, we are on an appropriations bill. There is much else involved here, just as the distinguished Senator from Florida said. We have science, health, education; we have a great variety of subjects that are all folded into this bill that require our action and I do not want to delay any further than we have to.

We are all going to know what we vote on before we vote on it. If I came marching up to this table and saw a little one-paragraph description of what this is all about, I would say, oh, my gosh, I do not want to touch this thing with a 10-foot pole. Well, we had better touch it and touch it fast. Because if we do not, people are going to die.

I would hope that we could go into a call for a quorum at this juncture and sit down with the Senator from North Carolina; and then have an opportunity to stop and discuss this.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I think it is important that, as the Senator said, that we know what we are voting on. As I listened to the description of this amendment I said, my mercy, somebody must have come in on top of me with a second-degree amendment. Because what my amendment says is nothing like what the Senator from Connecticut has said. I say that with all due respect.

The legislative history, I hope, has been made in that regard.

I want to do something unusual. I want to ask unanimous consent, Mr. President, that the clerk be asked to read the entire amendment, slowly, into the RECORD.

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

The clerk will read the amendment.

The legislative clerk read as follows:

At the appropriate place, add the following new section:

SEC. . (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage—

Mr. HELMS. Mr. President, if I may interrupt the distinguished clerk. Here is where we get into the meat, and it denies everything that was said against this amendment.

Now, if the clerk will pick up at that point?

The legislative clerk read further as follows:

that promote, encourage, or condone sexual activity outside a sexually monogamous marriage (including homosexual sexual activities) or the use of illegal intravenous drugs.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and

(2) abstinence from the use of illegal intravenous drugs.

Mr. HELMS. I am going to ask the clerk read no further, because he has covered the meat of it with what he has read.

The PRESIDING OFFICER. Is there objection to dispensing with further reading of the entire amendment? If there is no objection, it is so ordered.

AMENDMENT NO. 957 TO AMENDMENT NO. 956

Mr. HELMS. Mr. President, just to assure my good faith to my friend from Florida, even though I do not agree with him that this amendment in any way purports, or, in fact, does inhibit education about the perils of drug use, I am going to send an amendment in the second-degree to the desk and I am going to strike everything about illegal drugs.

Mr. President, I ask that the amendment be stated. Again, I apologize to the clerk, but I ask him to read the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

At the appropriate place in the pending amendment, the Senator from North Carolina proposes amendment numbered 957 to amendment numbered 956.

At the appropriate place in the pending amendment, add the following:

SEC. . (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone homosexual sexual activities.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from homosexual sexual activities.

(c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with since it corresponds to the text in the underlying amendment.

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

The amendment is as follows:

At the appropriate place in the pending amendment, add the following:

SEC. . (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone homosexual sexual activities.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from homosexual sexual activities.

(c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

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

The PRESIDING OFFICER (Ms. MIKULSKI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. CHILES. Madam President, I ask unanimous consent that the pending Helms amendment and the perfecting or substitute amendment thereto be temporarily set aside.

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

Mr. CHILES. Madam President, at this time we had already temporarily set aside the Weicker amendment. So the bill is open for further amendment.

I see the Senator from Montana is on the floor.

The PRESIDING OFFICER. If the Senator will suspend, the Weicker amendment must be set aside.

Mr. CHILES. I ask unanimous consent that the Weicker amendment be temporarily set aside.

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

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 958

(Purpose: To require a study to determine the number of older workers who are reentering the workforce, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 958.

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

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

The amendment is as follows:

On page 18, between lines 2 and 3, insert the following:

SEC. 106. The Secretary of Labor shall conduct a thorough study of older workers who have previously retired from or were pressured to leave a job and are reentering the workforce. The Secretary of Labor shall prepare and submit a report on the study required by this section to the Congress not later than 1 year after the date of enactment of this Act. The report required by this subsection shall contain such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

Mr. MELCHER. Madam President, today I am offering an amendment to the Labor, HHS, Education appropriations bill which will require that the Department of Labor conduct a study on older Americans who are attempting to reenter the work force.

During the past decade, there has been a rising trend toward early retirement from the work force. Many critics of early retirement maintain that a large number of employees who leave the work force, either through voluntary or forced retirement, find themselves ill-prepared for its financial consequences. They also contend that because of this, many older workers who have previously left the work force are trying to find new jobs. While this may or may not be true, we do not presently have information adequate to tell us what the facts really are.

To better understand whether or not people are being encouraged to retire too early, we need to understand whether retirees are, in fact, returning to the job market. If they are returning, why are they doing so? Did they originally leave the work force because they were forced to retire or did they do so voluntarily? How does this vary in urban and rural areas? If retirees are attempting to return to work, are their job skills marketable in the present-day work force?

The issue of older women entering the job market is also extremely important. Many women in their 40's and 50's who have never held a job are now attempting to enter the work force. On top of this, many women who left the work force to raise a family are also looking for jobs. Where and at what salaries are these women being hired? Do they have the job skills employers are seeking? These are just some of the questions which must be answered if we are to address the needs of employers and older employees.

In the years to come, the aging of the American work force will make us increasingly dependent on the talents of older workers. To effectively utilize the skills of these workers, we will have to better appreciate their abilities and needs, as well as whatever obstacles to employment they may be experiencing. We must also gain a better understanding for how the work experience of older workers meets the demands of their potential employers.

Aging advocacy organizations have been extremely concerned about these important issues. This study is strongly advocated both by the National Council of Senior Citizens and the National Council on the Aging, which has

a 35-year history of involvement in this area, is a strong advocate of this study. The Older Women's League has also expressed its support. These groups understand the value of such a study in enhancing our understanding of the dynamics of the work force as they effect older Americans. Only then will we possess the information necessary to develop informed older worker policies. I urge you join in supporting this important amendment and work with me to better meet our country's changing labor needs.

Madam President, I ask unanimous consent to have printed in the RECORD a list of questions for the Department of Labor study of older workers reentering the work force.

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

RECOMMENDED QUESTIONS FOR DEPARTMENT OF LABOR STUDY OF OLDER WORKERS REENTERING THE WORKFORCE

For the purposes of this study, the term "Older Worker" means an individual who has attained at least 40 years of age. Questions which the Labor Department should strongly consider using in this study include the following:

The number of workers who have previously retired or been pressured to leave a job are reentering the workforce, together with their reasons for desiring to reenter the workforce.

The reasons for such older workers retiring or being pressured to leave their previous job.

The period of time an average sample of such older workers were not in the workforce after retirement prior to reentering the workforce.

The period of time that an average sample of such older workers desiring to reenter the workforce took before finding a new job.

The number of such older workers who attempt to reenter the workforce but who cannot.

A description of the occupations which older workers who are attempting to reenter the workforce were engaged in prior to retiring or being pressured to leave the workforce.

The salary levels and benefit levels such older workers receive upon reentering the workforce, as compared with the salary and benefit levels they had received prior to leaving the workforce.

A description of the kinds of employers who hire such older workers.

The numbers of older workers who are being hired for part-time new jobs, full-time jobs, job sharing arrangements, and flextime arrangements.

The educational and training level acquired by such older workers prior to their retirement and its effect upon their ability to reenter the workforce.

The number of such older workers who are women either entering the workforce for the first time or reentering after having left the workforce to raise a family, along with the amount of previous work experience and training they have had.

Mr. MELCHER. Madam President, this amendment directs the Department of Labor to conduct a study on older Americans who are attempting to reenter the work force.

This study will increase our understanding of the financial and social circumstances of those who take early retirement without adequate preparation as well as women in their forties and fifties who are attempting to enter the work force for the first time. Such a study is necessary as a first step toward formulating sensible older worker policies. And I hope the amendment can be accepted.

Mr. CHILES. Madam President, this amendment has been cleared on both sides. So I think I would support the acceptance of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Montana? If not, the question is on the amendment of the Senator from Montana [Mr. MELCHER].

The amendment (No. 958) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. CHILES. I ask unanimous consent that the pending Weicker amendment and the Helms amendment, amendment thereto, be temporarily set-aside.

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

AMENDMENT NO. 959

(Purpose: To appropriate $1,000,000 for the State long-term care ombudsman homecare demonstration projects)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 959.

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

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

The amendment is as follows:

On page 39, between lines 9 and 10, insert the following:

STATE LONG-TERM CARE OMBUDSMAN HOMECARE DEMONSTRATION PROJECTS

For carrying out State long term care ombudsman homecare demonstration projects conducted under grants made by the Secretary of Health and Human Services, $1,000,000.

On page 6, line 25, strike out "$81,192,000" and insert in lieu thereof "$80,192,000", and strike out "$13,600,000" and insert in lieu thereof "$12,600,000".

Mr. MELCHER. Madam President, this amendment deals with the omnibudsman home care administration project. This amendment provides for the Secretary of Health and Human Services to carry out demonstration projects to test and evaluate the feasibility of expanding the activities of the omnibudsman program funded under the Older Americans Act to the home care services. Home care services includes those provided under the OAA, Medicare, Medicaid, and title XX of the social services block grant programs.

Madam President, the Senate Special Committee on Aging held two hearings this year on the issues of quality and access as they pertain to in-home services for older persons. The committee found that assurance of quality is virtually nonexistent under the various Government programs that provide for in-home services. Not only is there a lack of national standards for home care, there is no one to monitor what is going on within the homes of the recipients of in-home care. Those who receive in-home services are often too frail to advocate on their own behalf.

In 1978, the State long-term care ombudsman programs were incorporated into the Older Americans Act. The 1978 amendments required the designation of a person within the State unit on aging to operate the Ombudsman Program and requires the program to conduct the following activities: investigate and resolve complaints relating to the health, safety, welfare, and rights of institutionalized persons; monitor Federal, State and local laws, regulations, and policies with respect to long-term care facilities; provide information to public agencies regarding problems of older persons in long-term care facilities; and establish procedures for access to facilities' and patients' records, including protection of the confidentiality of such records.

While the jurisdiction of the ombudsman programs extend only to institutional facilities, for example nursing homes and board and care homes, it would be a logical extension of the program to have the ombudsman also investigate complaints regarding in-home care. With the Older Americans Act reauthorization this year, the ombudsman program will be strengthened considerably but not expanded into new areas.

It is important that before there is any broadening of the authority of the ombudsman programs into other arenas however, that we first know whether this is feasible, and if so, how it can be done in the most cost effective way.

I am offering this amendment to provide for not less than three demonstration projects over a 2-year period, with unexpended moneys carried forward to the following year. The projects will represent a variety of geographical populations—rural, semi-

rural, and urban. The purpose of this amendment is to provide the funding for the Secretary of the Department of Health and Human Services to demonstrate and evaluate the feasibility of the State long-term care ombudsman programs to administer ombudsman activities in homecare and coordinate such homecare ombudsman activities with the other activities of the office.

I would like to see the Secretary submit to Congress, upon the completion of these demonstration projects, a report describing the results of such projects and the advisability and costs of expanding the office to serve homecare recipients.

For the purposes of these demonstration projects, I do not mean only the in-home services provided under the Older Americans Act but the following:

First. Home health services as defined in section 1861(m) of the Social Security Act;

Second. Homemaker, personal care, chore, companion, or household maintenance services or any other service designated by the Secretary if—such service is provided to an older individual in his or her home, and payment for such service is provided in whole or in part under Medicare and Medicaid Programs, the Social Services Block Grant Program, and the Older Americans Act of 1965.

This amendment is supported by the National Association of State Long-Term Care Ombudsman Programs which represents all of the 52 ombudsman programs in the country.

If Congress is to assure quality care in home care services, there must be the components of accountability and advocacy. To achieve the goal of quality assurance, we need to first develop model home care advocacy systems. I hope that my colleagues will join me in support of this amendment.

I hope the amendment can be accepted.

Mr. CHILES. Madam President, this amendment has been cleared, and I think we can accept it.

I note for the record that there is an offset in this amendment. That is the basis on which we accept it. It is offset.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 959) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. CHILES. Madam President, I ask unanimous consent that we temporarily set aside the Weicker amendment and the Helms amendment.

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

AMENDMENT NO. 960

(Purpose: To appropriate $5,000,000 for part D of title III of the Older Americans Act of 1965, relating to in-home services for frail older individuals)

Mr. MELCHER. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] for himself and Mr. MATSUNAGA proposes an amendment numbered 960.

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

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

The amendment is as follows:

On page 39, line 9, strike out "$2,565,785,000" and insert in lieu thereof "$2,570,785,000".

On page 7, line 20, strike out "$216,952,000" and insert in lieu thereof "$214,052,000".

On page 7, line 21, strike out "$8,000,000" and insert in lieu thereof "$5,100,000".

Mr. MELCHER. Madam President, this amendment would provide start-up funding of $5 million for a very badly needed program being newly authorized under the Older Americans Act. There is an offset, so my amendment is budget neutral.

This program would provide nonmedical in-home services for the frail elderly, including victims of Alzheimer's disease and other neurological and organic brain disorders, and their families. These services are intended as a preventive measure to enable functionally impaired elderly to remain in their own homes instead of being institutionalized.

The Labor, HHS, and Education appropriations bill passed by the House of Representatives deferred funding for this and other programs that had not yet been authorized into law. However, the accompanying report specifically cited this program as one for which allocated funding was needed once the authorization was enacted. The conference report for the 1987 amendments to the Older Americans Act is expected to be acted upon next week.

Twenty-five million dollars is being authorized in a new section of the Older Americans Act as these services are becoming so badly needed by our fast-growing older population. Although some in-home services are now available under the Older Americans Act, a separate section and authorization has become necessary to focus on more detailed guidelines and the additional funding needed for in-home services. The States would be required to develop eligibility criteria for this assistance which would take into account economic need, age and noneconomic factors contributing to the individual's condition and need for services.

These services would be available to chronically impaired elderly who need help with daily activities but don't have the acute health care needs to qualify for Medicare or are not poor enough to qualify for Medicaid. Services would include assistance with such things as bathing, dressing, eating, shopping, cooking, cleaning or telephone reassurance and chore maintenance. Respite care for families is also allowed, including adult day care.

This amendment has strong support from many organizations involved with senior citizens including the National Council on the Aging, Villers Advocacy Associates, National Association of Area Agencies on Aging, National Council of Senior Citizens, Older Women's League, Grey Panthers and the National Association of State Units on Aging.

With almost 5 million elderly in the United States being functionally limited in their ability to perform daily activities and with the increasing growth of the frail elderly population, we cannot ignore the need to begin providing more in-home services as soon as possible. We will also be helping our older Americans to maintain their independence and dignity in their own homes as long as possible. I urge support of this amendment.

Mr. CHILES. Madam President, the amendment is a worthy cause, and there is an offset in this amendment. On that basis, both sides have cleared this amendment, and it can be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 960) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 961

Mr. BENTSEN. Madam President, I ask unanimous consent that we temporarily lay aside the Helms amendment and the Weicker amendment, and I send an amendment to the desk and ask for its immediate consideration.

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

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 961.

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

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

The amendment is as follows:

On page 56, at the end of line 25, add the following:

Of the funds provided under this head in fiscal year 1987 in section 101(i) of Public Laws 99-500 and 99-591, for carrying out title VII of the Elementary and Secondary Education Act, which are unobligated, $1,301,930 are reappropriated to carry out title VI of the Education Amendments of 1984 to be used to fund the amended application from the State of Texas for the Emergency Immigrant Education program: *Provided,* That the reappropriated funds shall be available until September 30, 1988.

Mr. BENTSEN. Madam President, this amendment will restore vitally needed education funds to Texas school districts faced with the responsibility of educating large numbers of immigrant children due to Federal immigration policies. Due to a series of administrative mistakes and miscommunications, 29 local educational agencies in Texas are in danger of receiving no funding at all for fiscal year 1988 under the Emergency Immigrant Education Program. As a result of those administrative mistakes and miscommunications, the number of eligible students in Texas was underreported by 18,599, and the Texas school districts stand to lose approximately $1.3 million.

Mr. President, this is clearly a tragic turn of events. These Texas school districts are precisely the types of districts that Congress sought to assist when it created the Emergency Immigrant Education Program. For example, the Brownsville Independent School District is located right across the border from Mexico, has a large number of immigrant students and, given the difficult economic situation in that area, is in particularly dire need of these funds.

Since learning of this administrative situation and the impact it would have on crucial education services in Brownsville and elsewhere in Texas, I have worked with my colleagues here in Congress together with officials at the Department of Education to find a way to continue funding this important program in these needy districts.

I am pleased to report that a painless way to accomplish that objective has been unearthed. The Department of Education has informed me that funds previously earmarked for training and technical assistance under the bilingual education program are available for transfer to the Emergency Immigrant Education Program, and obligation to the Texas districts. We are not talking about a situation where we are taking money out of one program to fund another, we are talking about a reappropriation of previously unused bilingual education funds. And we are providing valuable funding to educational programs of critical importance, and to districts that clearly belong to the group of intended beneficiaries of the statute of creating the program.

Madam President, I want to thank Senator CHILES, and his staff for all of their assistance in this matter. I appreciate their help in correcting this unfortunate situation. In addition, I want to acknowledge the assistance that I have received from two of my distinguished colleagues in the Texas delegation, Speaker WRIGHT and Representative ORTIZ. Their help has also been important.

I understand that this amendment has been cleared for acceptance on both sides, and I urge its speedy adoption.

Mr. CHILES. Madam President, I am certainly aware from my own experience in Florida how important the Immigrant Education Program has been in helping States like mine and that of the Senator from Texas in meeting the cost of educating our immigrant youngsters, those who are here not because of policies of State but because of policies or the absence of policies on the part of the United States.

I think he has found a painless way that will not affect any other State.

I am pleased to support the acceptance of his amendment and this has also been cleared by my distinguished minority manager.

The PRESIDING OFFICER. Is there any further debate on the amendment?

The question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 961) was agreed to.

Mr. CHILES. Madam President, I ask unanimous consent that the Weicker amendment pending to the Helms amendment be temporarily laid aside.

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

The Senator from Vermont.

AMENDMENT NO. 962

(Purpose: To provide additional funds which are offset and a special rule with respect to the funds for the High School Equivalency Program)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD] proposes an amendment numbered 962.

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

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

The amendment is as follows:

On page 48, line 14, strike out "$4,478,000,000" and insert in lieu thereof "$4,477,000,000".

On page 48, line 21, strike out "$285,000,000" and insert in lieu thereof "$284,000,000".

On page 49, line 4, strike out "$8,000,000" and insert in lieu thereof "$9,000,000".

On page 49, line 8, after the colon insert the following: "*Provided further,* That $1,000,000 of the amount made available for the High School Equivalency program shall be awarded to the three highest ranking unfunded project applicants for grants made pursuant to the fiscal year 1987 appropriation:".

Mr. STAFFORD. Madam President, this is an amendment to the pending bill. I ask for your consideration of a technical amendment to H.R. 3058, the Labor, Health, Human Services, Education and related agencies appropriations bill. This amendment would simply transfer $50,000 in outlays from one migrant education program to another. This amendment would also transfer $1,000,000 in budget authority. The High School Equivalency Program, authorized under title IV of the Higher Education Act, makes grants available to community agencies to help migrant students return to school and receive graduation equivalency diplomas.

In last years Higher Education Act reauthorization bill, the HEP Program was amended to require a 3-year grant award cycle. Therefore, in fiscal year 1987 the Department of Education completed a new competition for continuing awards for the HEP Program. This change from a 1-year to a 3-year competition has caused some confusion in the program. My amendment would direct the Secretary to use a total of $1,000,000, to make grant awards to the three highest ranking unfunded project applicants for grants made pursuant to the fiscal year 1987 appropriation.

I greatly appreciate the work of the staffs of Senator CHILES and Senator WEICKER, who are the managers of the bill, in helping me resolve this important issue.

Madam President, I believe that this amendment has been cleared on both sides of the aisle. I move its acceptance.

Mr. CHILES. Madam President, the Stafford amendment would add $1 million to the Higher Education Program for migrant students. These funds will allow the Department of Education to fund three additional projects in 1988.

In 1987, the Department of Education held a new competition for this program but funded five fewer projects than were funded previously. This amendment will aid us in getting back to where we were last year. I am pleased to say that we now have one of these programs at the University of South Florida in Tampa. These programs do an exceptional job at recruit-

ing potential dropouts out of the migrant community and setting them on a course toward academic accomplishment.

It is my understanding that the funds for this amendment will come from the funds set aside for coordination activities under the Compensatory Education Program for Migrant Students and that the Migrant Student Record Transfer System [MSRTS] will still receive an increase above the 1987 level. We have provided a $20 million increase for this program, a larger increase than the House, so I am comfortable making this transfer of funds. It is also my understanding that this transfer will be added to the $300,000 increase we have provided to enhance recruitment activities at the 18 HEP projects that have already been awarded grants and, thus, will not affect the increase these projects will receive. Since this amendment is outlay neutral, I am pleased to accept it.

Mr. WEICKER. Madam President, I commend the distinguished Senator from Vermont for his amendment and support it.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 962) was agreed to.

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

Mr. WEICKER. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STAFFORD. I yield the floor and I thank the managers of the bill for their cooperation.

The PRESIDING OFFICER. The question now occurs on the Helms amendment in the second degree.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. Mr. President, what is the pending business? I refer to which amendment.

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from North Carolina in the second degree.

Mr. HELMS. I thank the Chair.

I will ask the Chair if it is not the case that I have an underlying amendment with the yeas and nays ordered.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. And a second-degree amendment on which the yeas and nays have not been ordered.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

Mr. President, I ask unanimous consent that the yeas and nays on the underlying amendment be vitiated.

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

Mr. HELMS. Mr. President, I withdraw the underlying amendment, which takes with it the second-degree amendment.

The PRESIDING OFFICER. The amendment is withdrawn and the second-degree amendment is withdrawn.

AMENDMENT NO. 963

(Purpose: To prohibit the use of any funds provided under this Act to the Centers for Disease Control from being used to provide AIDS education, information, or prevention materials and activities that promote or, encourage homosexual sexual activities)

Mr. HELMS. Mr. President, I send an amendment to the desk. I ask unanimous consent to lay aside the pending business.

The PRESIDING OFFICER. The Senator asks that the Weicker amendment be temporarily set aside so that he can offer his amendment. Is there objection? Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 963.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

Sec. . (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote or encourage, directly or indirectly, homosexual sexual activities.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and

(2) abstinence from the use of illegal intravenous drugs.

(c) The homosexual sexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsections (a) and (b) includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

(e) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

Mr. HELMS. Mr. President, I have been conferring with the distinguished Senator from Florida [Mr. CHILES] and the distinguished Senator from Connecticut [Mr. WEICKER] and I believe that I have made some alterations which are reasonably satisfactory to them and reasonably satisfactory to me. In any case, all three of us have been trying to accommodate each other in accordance with our respective views on the matter.

Mr. President, I ask for the yeas and nays on this amendment.

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

The yeas and nays were ordered.

Mr. CHILES. 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. WEICKER. 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. WEICKER. Mr. President, this week in the Washington Post an article appeared relative to comments made by the Surgeon General of the United States, Dr. C. Everett Koop.

Let me take this opportunity to read them because they relate directly to the debate that exists on the floor at the present moment. The headline of the article is:

KOOP ASKS DOCTORS TO BACK CONDOM USE—FORTHRIGHTNESS ABOUT AIDS ADVOCATED

(By Michael Specter)

Surgeon General C. Everett Koop, in his most explicit public comments on the prevention of AIDS, has asked the nation's physicians to recommend condom use for all sexually active patients unless they are certain their sex partners are free of the infection.

"My moral and religious background has made it difficult for me, as it may be for you, to discuss sexual issues in public," Dr. Koop wrote in an editorial to be published

in this week's Journal of the American Medical Association.

He added, however, that unusual frankness is necessary because the "alternative is almost-certain death."

Koop has been the Reagan administration's most vocal and persistent advocate of condom use to prevent transmission of AIDS. In his editorial he writes, as he has in the past, that condoms are not 100 percent effective, but "if correctly used they can dramatically reduce one's risk of exposure."

For the first time, he advises physicians to recommend that condom use be supplemented with a lubricating cream that contains at least 65 milligrams of nonoxynol 9, a spermicide that also destroys the virus. He also urges that doctors teach proper condom use, and, saying that it is "simply too dangerous," Koop suggests that all individuals refrain from practicing anal sex.

"The editorial is a very courageous, forthright attempt to keep the country's doctors up to date on the transmission of a deadly disease," said Cecil H. Fox, an AIDS researcher at the National Institutes of Health. "It's not the type of thing he feels comfortable doing. But he knows there is such an enormous danger that he has no choice."

Koop urged doctors to speak openly with their sexually active patients no matter what their age.

"Some of you find it unpleasant to recommend condoms to young people," he wrote. "So do I. Acquired immunodeficiency syndrome is an unpleasant disease and recommending condoms to those who need protection is preferable to treating AIDS."

Koop wrote that doctors should tell patients that if they have doubts about their sexual partner, they should require the use of a condom. Patients should have doubts about anyone who has had sex with any other partners, he said.

Koop has been strongly attacked by conservatives both within and outside the Reagan administration for his public support of wide use of condoms to prevent AIDS transmission. Critics argue that abstinence is the only sure way of preventing the disease and that condoms can have a high failure rate.

Koop, who has frequently opposed widespread mandatory testing for AIDS infection, instructed physicians to encourage blood tests for anyone whose sexual history makes them concerned that they may have AIDS.

He also wrote that "patients should be informed that physicians are required to keep results in confidence, sharing the information only with professionals who need to know. The physicians should discuss the advisability of notifying a spouse or other sexual contacts."

Koop also urged physicians to remind any woman who tests positive for antibodies to the AIDS virus, HIV, that AIDS may be passed to any child she conceives.

Koop included in his editorial the suggestion that doctors warn their patients to beware of people who belong to organizations that offer "sexual safety because they issue a health card." Such cards are always out of date and such people usually have a reason for being tested, he said.

As of last week, the Federal Centers for Disease Control had received reports of 41,770 cases of AIDS in the United States. The Public Health Service estimates that at least 1.5 million other people have been infected with the HIV virus but have shown no symptoms of the disease.

That is the article in its entirety. I just want to repeat that section which says, "He added, however, that unusual frankness is necessary because the 'alternative is almost certain death.'" That is what is at issue out here. That is what is at issue--whether or not the knowledge that we transmit is complete, No. 1, and, No. 2, that we are transmitting it to everyone in this Nation and certainly to those populations that are the highest at risk. And the high-risk populations of this Nation are our children, as illustrated by the statistics that I have already cited concerning sexual activity, intravenous drug use, and homosexual activity.

I think that I have as much knowledge as any other Senator as to where we stand scientifically at the present time on AIDS in this Nation. Whether you are talking to private pharmaceutical companies or the National Institutes of Health or the Centers for Disease Control, the fact is that we are years away from effective treatment, either through chemotherapy or through a vaccine. The only tool we have at hand that is effective is education. What we are being asked to approve on the Senate floor is censorship of knowledge. In this particular instance that censorship will result in x number of persons dying. I cannot give you a figure, but I know that if this legislation passes, you will have a chilling effect on an already chilled CDC when it comes to the dissemination of knowledge. I have to repeat what I said before. By virtue of a request of CDC to the distinguished chairman, Senator CHILES of Florida, and myself as ranking member, we gave $20 million to the CDC for a mailer to go into every American home.

That was at their request. To date, that mailer has not gone to every American home. I might add, to give you a comparison of how two nations have reacted in terms of education, this Nation has by far the most diagnosed cases of AIDS. Yet on education we lag far behind nations with a fraction of our victims. Great Britain for example, a nation of 55 million and one with just 750 cases has seen to it that every British household gets the message, "Don't die of ignorance." And the British brochure is just one facet of a $30 million advertising campaign for every household, and they only have 750 AIDS cases. Here, as I have indicated to you, we have 41,770 with a guesstimate that we have 1.35 million infected, and we are going to sit here and try to tailor the education of America to the individual moral beliefs of a handful of Senators.

It has nothing to do with being a Republican, Democrat, liberal, or conservative. It has a great deal to do with who should lead this particular fight. As I said the other day, I would not ask a doctor to direct the war in the Persian Gulf, and I do not want philosophers directing the war on AIDS. There should be full and total knowledge. Let me make it clear, for me to stand here on the floor and argue as I have that this is as repugnant to me as it is to anybody else, but we have an obligation and a responsibility.

When I walk off this job, I am not going to have haunting me for the rest of my life that I did not use the power when I had it to do the best I could in the sense of informing the American public of the gravity of this crisis, and what needs to be done. Because once you have it, you are dead. Right now that is the state of the art in the United States of America. If you get AIDS, you are dead. Hopefully within a year or two science will be able to refute that statement. But right now the only effective measure I have at hand, and the only effective measure that America has at hand is education. That should be uninhibited and it should be complete. It should reach out to all.

Nobody is advocating lifestyles that include intravenous drug use, homosexuality, or promiscuity in any way. Nobody is advocating that. But I cannot sit here and help pass laws that could be interpreted by their broad language as to restricting the nature of the information that the American public should be receiving.

I am prepared to go ahead and yield the floor. But I would remind my colleagues of Dr. Koop's statement, and again I repeat this is a man who I think is considered professionally at the head of the line, who was appointed into the official position—I am not, he was—of being the guardian of America's health. Coincidentally, he is a Reagan appointee and coincidentally he is a rather conservative gentlemen. But he, to the same extent as all of us, has the lives of America in his hands.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The business before the Senate is the Senator's amendment.

Mr. HELMS. I cannot hear the Chair, I am sorry.

The PRESIDING OFFICER. The business before the Senate is the Senator's amendment No. 963.

Mr. HELMS. I thank the Chair.

AMENDMENT NO. 964

(Purpose: To prohibit the use of any funds provided under this Act to the Centers for Disease Control for AIDS educational, informational, or preventative materials or activities for school aged children or young adults from being used to promote sexual activity or the use of illegal intravenous drugs)

Mr. HELMS. Mr. President, I send a second-degree amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The bill read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 964 to amendment No. 963.

At the end of the pending amendment, add the following:

SEC. . (a) None of the funds made available under this Act to the Centers for Disease Control for AIDS educational, informational, or preventional materials and activities for school aged children and young adults shall be used to provide educational, informational, or preventative materials or activities that encourage, or promote—

(1) sexual activities outside of a sexually monogamous marriage; or

(2) the use of illegal intravenous drugs.

(b) All AIDS educational, informational, and preventative materials and activities for school aged children and young adults shall emphasize—

(1) abstinence from sexual activity outside of a monogamous marriage; and

(2) abstinence from the use of illegal intravenous drugs.

(c) The sexual activity referred to in subsections (a) and (b) includes any sexual activity as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsections (a) and (b) includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

Mr. HELMS. Mr. President, I had hoped that we could get to a vote on the underlying amendment but now I understand that an effort was under way—I will use the past tense—to prevent consideration of that amendment by the offering by a Senator of a second-degree amendment which would, in effect, prevent a vote on my amendment. So that is the reason I have offered the second-degree amendment, to assure that my underlying amendment will not be short-circuited.

I will be candid. It was not Senator WEICKER who was contemplating that. But I had unquestioned information that this move was afoot by another Senator, and I simply could not risk his being successful.

I am determined to have a vote on my amendment as modified. It may not satisfy the Senator from Connecticut completely. For my part, I was reluctant to strike the word "condone," but I was willing to do that in order to move the process along.

But, in any case, Mr. President, the purpose of this second-degree amendment is to assure that the American taxpayers' dollars are used for education and information for school-aged children and young adults, the kind of education which will discourage rather than encourage the types of behavior which are perpetuating the AIDS problem in this country.

Specifically, the pending amendment in the second degree prohibits the use of taxpayers' money for education or informational materials for school-aged children or young adults which encourages or promotes sexual activities outside of a sexually monogamous marriage; or two, which condones the use of illegal intravenous drugs.

Furthermore, the amendment requires that all these materials emphasize, beyond any question, the importance of abstinence from these activities.

Mr. President, I am sure I do not have to remind Senators that the AIDS epidemic is one of the most serious problems facing this Nation. It threatens not only the health of our citizens, but the financial security of the country.

I often have remarked on this floor that by 1991, more people are projected to be suffering from AIDS at that time, or will have died from AIDS, than the total number of Americans who died in the Korean and Vietnam Wars combined. An estimate has been made that the cost to this country will reach $65 billion a year by 1991.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Connecticut.

Mr. WEICKER. I would like to say, before my distinguished friend from North Carolina departs the floor that I, among others, have been waiting in the Cloakroom. I was asked to wait while the distinguished Senator had another important meeting.

Now I come to the floor and learn of the substitution of another amendment which was not discussed. I really would like to get brought up to speed. The Senator is well within his rights to do what he did. On the other hand, I was not on the floor when he asked to dispense with the quorum call and, as he knows, we usually try as best we can—we do not always succeed—to iron out differences, which I thought is what we were in the process of doing. I am a little taken aback by a procedural event which is also substantive in nature.

Mr. HELMS. Will the Senator yield? I think I can explain this.

Mr. WEICKER. Yes, indeed.

Mr. HELMS. I inquired about your whereabouts. I did not know you were in the Cloakroom. I was told you had gone to get some lunch, then I was advised that another Senator, not on this side of the aisle, was preparing a second-degree amendment to render nugatory what then would be my underlying amendment. I was not about to let that happen, so I called up my own second-degree amendment.

I did not ask for the yeas and nays on my second-degree amendment because I recognized that the Senator from Florida and the Senator from Connecticut have been acting in good faith. I can and will withdraw that, but I must ask that there be an up and down vote on what is now my underlying amendment.

I am perfectly willing to go to a vote now. I will withdraw my second-degree amendment. I did not attempt to circumvent the Senator. I was merely protecting my rights on this floor.

Mr. WEICKER. Well, in response, Mr. President, first of all let me say that both the Senator from Florida and the Senator from Connecticut, considering we were in a negotiating mode——

Mr. HELMS. Still are.

Mr. WEICKER [continuing]. Would not have permitted the Senator from North Carolina to be—would not permit an amendment, in other words, to have taken away the rights of the distinguished Senator from North Carolina. We would not have allowed that to happen.

Clearly we understood what we were doing and should there have been some other Senator that desired to try and accomplish that he would have faced not only the opposition of the Senator from North Carolina, but also the opposition of the Senators from Florida and Connecticut.

Mr. HELMS. But we are still in good shape. If we can reach an accommodation and get to a vote, I will be glad to withdraw the second-degree amendment.

Mr. WEICKER. I would suggest we go back to where we were. We were waiting to go ahead and put the final touches on what I thought was the compromise. If we cannot, that is fair enough; then we should go ahead.

Mr. HELMS. I will ask unanimous consent, first, Mr. President, that I be allowed—well, I can withdraw the amendment without asking unanimous consent. I do not need a unanimous consent on that. But I ask unanimous consent that no amendment to the underlying amendment be in order.

Mr. WEICKER. I would only have to object because the distinguished chairman is not on the floor, but I do not think the Senator from North Carolina has any problem whatsoever.

Mr. HELMS. Oh, yes, there is.

Mr. WEICKER. Well, as I understand it——

Mr. HELMS. Not with the Senator from Connecticut.

Mr. WEICKER. Let me make a parliamentary inquiry. As I understand it, the original amendment of the Senator from North Carolina was so modified that, in effect, it was the second-

degree amendment? Am I correct? The modification that was sent, the original modification—not the latest, but the original modification by the Senator from North Carolina to his amendment—in effect, would have been a second-degree amendment? Am I correct in that?

The PRESIDING OFFICER. I will state in reply to the parliamentary inquiry that the original amendment was not modified. There was an amendment proposed which was an amendment in the second degree to the original amendment.

Now the Senator had requested the yeas and nays on the original amendment and not on the second. We are talking about the first set of amendments that came, not the present situation.

Mr. WEICKER. That is correct.

The PRESIDING OFFICER. So the Chair will state to the Senator from Connecticut that that was an amendment; not a modification to the original amendment as proposed.

Mr. WEICKER. So the original amendment had been amended in the second degree.

The PRESIDING OFFICER. An amendment was pending. It had not been adopted. An amendment was pending.

Mr. WEICKER. I understand. An amendment was pending.

Am I correct, as I made inquiry of the Parliamentarian earlier, that that amendment was withdrawn? Is that correct?

The PRESIDING OFFICER. The underlying first-degree amendment was withdrawn, taking with it the second-degree amendment. So both amendments were withdrawn.

The Senator from North Carolina then sent up another amendment. That amendment is pending now and the Senator had asked for the yeas and nays on that.

The Senator then offered a second-degree amendment. The yeas and nays have not been offered on that.

Mr. HELMS. The Chair has stated the legislative situation precisely, and I thank the Chair.

The PRESIDING OFFICER. So there is pending at the present time an amendment in the first degree and in the second degree by the Senator from North Carolina.

Mr. WEICKER. I would suggest, then, to my distinguished colleague from North Carolina, that I put in for a quorum call right now and that we discuss the matter. Both of his amendments are still there. He is protected.

Before we take any further action, either by way of yeas and nays or by way of modification or whatever, I suggest that we put in a call for a quorum to discuss this.

Mr. HELMS. Very well.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DIXON. Mr. President, I ask unanimous consent that I be permitted to proceed as though in morning business for the purpose of introducing a bill, making a brief statement.

(The remarks of Mr. DIXON relating to the introduction of legislation are printed in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

Mr. HELMS. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

Mr. HELMS. Mr. President, in discussion with the distinguished managers of the bill, in negotiating some of the language of the amendment, I find that one word has been made irrelevant, and I ask unanimous consent—even though I have the yeas and nays on the amendment—that on line 14, page 2, the "(a) and" be deleted.

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

Mr. HELMS. Mr. President, I do not want to prolong this further. All of us have been ready to vote for some time. Let me just summarize for Senators or staff who may be listening. We have been involved in discussion concerning the amendment I proposed on the topic of limiting advocacy of certain behaviors in the course of funding with Federal dollars AIDS education, information, and prevention programs.

The managers of the bill preferred to delete the reference to the concept of condoning the behavior. I said promote, encourage, or condone. So rather reluctantly—or extremely reluctantly, to be honest about it—I decided to strike the word "condone." And I deleted it from the amendment now pending or the underlying amendment.

The managers also sought to narrow the focus of this Senator's amendment to deal exclusively with homosexual relations rather than with premarital and extramarital sexual relations and intravenous drug use and so forth. Perhaps there is a better approach, one that we can deal with at a subsequent time.

Mr. President, let me be clear. I am trying to make some legislative history with respect to the intent of this Senator. The amendment before the Senate—that is to say, the underlying amendment—is very simple and, I think, straightforward. It prohibits the use of Federal tax dollars to fund activities which promote or encourage homosexual sexual activities. It also specifies that educational materials should emphasize abstinence outside of a sexually monogamous marriage and abstinence from intravenous use of illegal drugs. Surely, Mr. President, the Senate will not hesitate to support this overwhelmingly.

Earlier, Mr. President, on this floor, I read from grant presentation documents prepared by the Gay Men's Health Crisis of New York City. That is a corporation. It is unmistakably clear that those activities are being federally funded and are promoting and encouraging homosexuality. Today at lunch with a group of Senators who had inquired about it, I provided specific documentation. They were aghast, and properly so. Therefore, Mr. President, it should be clear that in adopting this amendment, if in fact it is adopted, this Senate is prohibiting further funding for programs such as those sponsored, operated by the Gay Men's Health Crisis Corp. that promote or encourage homosexual sexual relations.

Mr. President, with the assurance that there will be no second-degree amendments offered in place of my second-degree amendment, I withdraw the second-degree amendment which does not have the yeas and nays ordered.

The PRESIDING OFFICER. The Senator has a right to withdraw that amendment.

Mr. HELMS. The first-degree amendment does have the yeas and nays?

The PRESIDING OFFICER. That is correct. The second-degree amendment the Senator has the right to withdraw. The Chair understands the Senator has withdrawn that. The first-degree amendment, the yeas and nays have been ordered on that. That is the pending business now.

Mr. HELMS. The Chair is exactly right. I thank the Chair very much.

Mr. CHILES. Mr. President, we have been on the floor discussing this for a lot of time this morning. I believe the amendment so modified and changed complies with what the Senator from North Carolina wants to do. Certainly, I think no one in the Senate is wanting to promote or encourage activities whether it be the use of drugs, intravenous needles, homosexual activity, any of those things to promote and encourage. I think the concern is that we do not allow the Senate to cease control in putting out information to help us stop the spread of AIDS. And we need to be able to put out that kind of medical and scientific and other information that is necessary. I think it is allowed to do so. So I will support the amendment.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, this morning when the distinguished Senator from North Carolina submitted his amendment, that amendment read as follows:

Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone sexual activity outside of sexually monogamous marriage (including abstinence from homosexual activities) . . . or the use of illegal intravenous drugs.

Education, information, and prevention activities and materials paid for with funds appropriated under this act shall emphasize abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and abstinence from the use of illegal intravenous drugs.

And it went on from there.

What has occurred during the course of discussions with the distinguished Senator from North Carolina is basically the intravenous drug user has been eliminated from the language of the amendment that prohibits such activity, as is the reference to the heterosexual community which prohibits certain activities. Those have been taken out of the amendment along with the word "condone."

So we now have before us the language that in effect says "None of the funds made available under this act", et cetera, "Shall be used to provide educational, informational, or preventative materials or activities that encourage, or promote" directly or indirectly homosexual sexual activities.

It certainly, as I said before, is not the object of the Centers for Disease Control to go ahead and encourage any particular lifestyle. It is their job to aid in fighting this disease with all the education that we have available to us, and getting that education to all of our citizens.

Even though this compromise has been fashioned, I still think that its implications are such that it would be very difficult for this Senator to vote for it. It implies that the Centers for Disease Control are doing somewhat less than their job, and believe me, they are one of the few institutions in this country that are doing their job, and doing it well.

I understand there are going to be further AIDS amendments, and we will address those as they come up. But I suppose what it all amounts to on the bottom line is that the fight against AIDS should be waged in terms of micromanagement by the Centers for Disease Control and the National Institutes of Health and the doctor, physicians, and nurses around this Nation, and not by politicians.

Again, I have to point out that this is the first time, to my memory anyway, that we have heaped a moral judgment on a certain part of our population. For those who are all sitting there and saying, "I don't like homosexuality," just remember this: If you drink, we might just heap our moral judgment on you someday. If you engage in a little straight sex that results in the expenditure of Federal funds, for example, and creates syphilis and gonorrhea, we might heap our moral judgment on you someday. If you smoke and get cancer of the lung, we may heap our moral judgment on you someday. Once you start this game, there is no end to it.

I know my limitations on the floor of the U.S. Senate. I know some may believe that LOWELL WEICKER feels he has no limitations at all, but I understand my limitations on the floor of the U.S. Senate. I have done the best I can with what is an unsatisfactory situation, no matter how you frame it. And I agree to the compromise or I do not agree to it, but I realize these things have to be done. But I am not going to set the precedent of who is and who is not going to get my help. I have to live with myself, and all I can say as I go through my career here is that I am sure I will make a lot of mistakes, but I will never make the mistake of turning my back on anyone who is sick.

So let us get to a vote on this matter. I have tried to explain why I will vote "no" if it is up or down and "yes" if it is to table.

Mr. LEVIN. Mr. President, I am voting for this amendment because I do not believe that it is appropriate for the Federal Government to provide funds to encourage or promote sexual activity outside of a monogamous marriage, whether it be the homosexual activity to which this amendment is directed or whether it be heterosexual activity.

Mr. KENNEDY. Mr. President, although on balance I support this amendment in its modified and watered down version, I wish to express my concern regarding some of its ambiguous provisions and their potential interpretation. Exercises such as the one in which the Senate is currently involved will do nothing to decrease the spread of the AIDS epidemic. Though I will vote for this amendment as it has been negotiated by the floor managers of the bill, there is no question in my mind that the current language of this amendment will not make a constructive contribution to the battle against AIDS.

Hundreds of years of legislation against homosexuality have not stopped it, and the Senate cannot stop it with this vote. This amendment may be widely seen in some quarters as a plebiscite by the Senate on homosexuality, but it is nothing of the kind. It is an irrelevant gesture with regard to the war on AIDS. A distorted focus on one piece of educational material which was not even funded by Federal appropriations has left this amendment devoid of real substance.

But this foolish exercise should not be interpreted as placing the Senate on record as urging that the Federal Government or any of its agencies should pretend that homosexuality does not exist. Nor does it place the Senate on record as urging that AIDS educational materials condemn homosexuality. Our leading public health officials as well as our leading mental health experts have instructed us clearly and powerfully on this subject. Condemning people with AIDS will only drive the AIDS epidemic underground. It will do nothing to stop the spread of this deadly disease.

This amendment does not state that education materials deigned to prevent AIDS cannot recognize that homosexuality exists. It also does not state that negative value judgments about homosexuality should be included in AIDS educational materials. It means only what it says in simple language, that education activities should not promote homosexuality. Though the amendment as originally drafted was a damaging statement that might have eroded the best efforts of organizations around the country which are working hard and well to stop the spread of AIDS, the current version is toothless and it can in good conscience be supported by the Senate. It may not do any good, but it will not do any harm.

In adopting this amendment, the Senate will be making clear that CDC funds must be used specifically for AIDS education and prevention. It is not the role of the CDC to advocate or discourage lifestyles, but to stop the spread of disease. It is also true however, that in passing this amendment the Senate does not intend to deny funds to the organizations best able to meet that challenge. For example, organizations which state that unprotected sex between men can kill you are not advocating high risk behavior, but are discouraging such activity.

This amendment also requires that educational materials supported by the Federal Government should emphasize abstinence from sex outside of marriage and abstinence from the use of illegal intravenous drugs. These are two sound approaches to stopping the spread of AIDS, but if that is all we do, we will lose the war on AIDS. Everyone in the Senate knows full well that these steps will never be the answer for everyone in our country. It would be silly and ineffective if the education materials that were supported with Federal funds were to offer only these two statement and stop there.

Public health experts and scientists, including the Surgeon General, lead-

ers of the National Institutes of Health, and leading physicians have spoken clearly about how Americans can avoid transmitting or becoming infected with the AIDS virus. The Federal Government must continue to offer the entire message. Those who will not follow these precepts must know how to prevent or reduce their risk, of acquiring AIDS. The complete message must be offered in many different ways to many different groups in many different versions. If we fail in this task, the result may be catastrophe.

Senator HELMS' simplistic approach offered in this amendment is inadequate to fight a disease which is already advancing rapidly through the population. The war on AIDS is not the time for a debate about homosexuality. The virus is spreading, we need genuine leadership to end the epidemic. Comprehensive AIDS legislation with broad bipartisan support has already been reported by the Senate Labor Committee and is overdue for Senate action. Instead of these piecemeal and irrational exercises, let us move on the real debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO] is necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

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

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—94

Adams	Dole	Kennedy
Armstrong	Domenici	Kerry
Baucus	Durenberger	Lautenberg
Bentsen	Evans	Leahy
Biden	Exon	Levin
Bingaman	Ford	Lugar
Bond	Fowler	Matsunaga
Boren	Garn	McCain
Boschwitz	Glenn	McClure
Bradley	Graham	McConnell
Breaux	Gramm	Melcher
Bumpers	Grassley	Metzenbaum
Burdick	Harkin	Mikulski
Byrd	Hatch	Mitchell
Chafee	Hatfield	Murkowski
Chiles	Hecht	Nickles
Cochran	Heflin	Nunn
Cohen	Heinz	Packwood
Conrad	Helms	Pell
Cranston	Hollings	Pressler
Danforth	Humphrey	Proxmire
Daschle	Inouye	Pryor
DeConcini	Johnston	Quayle
Dixon	Karnes	Reid
Dodd	Kasten	Riegle
Rockefeller	Simpson	Trible
Roth	Specter	Wallop
Rudman	Stafford	Warner
Sanford	Stennis	Wilson
Sarbanes	Stevens	Wirth
Sasser	Symms	
Shelby	Thurmond	

NAYS—2

Moynihan	Weicker

NOT VOTING—4

D'Amato	Kassebaum
Gore	Simon

So the amendment (No. 963) as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. BYRD. Mr. President, I will not delay the distinguished majority whip long. I wonder if I might have the attention of the Republican leader.

Mr. STENNIS. Mr. President, may we have quiet?

The PRESIDING OFFICER. The Senate is not in order. The majority leader is recognized, as soon as the Chair obtains order.

The Senate will be in order. The Sergeant at Arms will maintain order in the galleries.

The majority leader.

Mr. BYRD. Mr. President, while the Republican leader is on the floor, I would like to—if we can have order in the Senate.

The PRESIDING OFFICER (Mr. FOWLER). The Senate will be in order. The Senate will be in order. All staff take their seats, Please give your attention to the majority leader.

The majority leader is recognized.

THE BORK NOMINATION

Mr. BYRD. Mr. President, the distinguished minority leader and I had a discussion this morning with reference to the Bork nomination. The Bork nomination is on the calendar today, and if we cannot get unanimous consent to call up the nomination—and there is no objection on this side—the two leaders can join together to waive the 2-day rule. If that 2-day rule is not waived, I cannot move to take up the nomination without unanimous consent or without the waiver of it until the expiration of the 2 days.

The 2 days begin running when the printed report is available to Senators. That printed report, I am told, will not be available until tomorrow around noon. This means that the 48 hours would not begin running until that time, and would not expire until about the same time on Saturday.

Mr. President, the two leaders can waive that rule and the Senate can go on the Bork nomination today upon the disposition of this bill or, as a matter of fact, right now, or tomorrow.

Now, the President said he wanted to see a vote this week. I understood the distinguished Republican leader to say something of the same order.

I inquire again, as I told the Republican leader I would inquire today repeatedly, if he is ready to join with me in waiving the 2-day rule so that the Senate can begin debate on the Bork nomination. The longer we wait in disposing of this nomination—and Mr. Bork is entitled to a vote—the longer we will be in filling the Court vacancy.

Mr. President, I inquire of the distinguished Republican leader if he is ready to join with me in waiving the 2-day rule.

Mr. DOLE. Mr. President, if the majority leader will yield and permit me to make a brief statement.

Mr. BYRD. Yes.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Let me say in the first instance, as the majority leader correctly stated, the report will not even be available until tomorrow noon. We could waive that 2-day requirement.

I discussed the matter, I must say, last night with about 25 or 30 of my Republican colleagues. I will say again for the record, when I asked the question, not a single Republican indicated that as the leader they wanted me to agree to that. They felt that way, not because they wanted to be petty or partisan, but because many believed that they had some responsibility, even though most people have announced their position on the Bork nomination, to put together some arguments and to take a look at the record.

Today we have had three or four members of the Judiciary Committee meeting almost all day long trying to construct an appropriate, proper argument to make on the Senate floor—an argument that would not delay the Senate, not frustrate the wishes of the majority in this instance, or the majority leader.

I have just visited with the distinguished Republican whip, Senator SIMPSON of Wyoming. I think they made a lot of progress today. But I am not in a position to join the distinguished majority leader.

Judge Bork said he was under no illusions about changing the vote. But neither should he be shortchanged on the Senate floor as far as appropriate debate. The majority leader himself has indicated that he certainly deserves a vote. And I think by inference, indicated that he deserves to have his nomination discussed in a rational way, in a careful way. And we want to do that.

But I would restate, as I stated this morning, all of a sudden those in the

majority want to rush to judgment. Judgment has already been made in this case. But the person on whom the judgment was made had to wait 72 days for the hearings to start. We had 12 days of hearings and 120 witnesses.

It seems to this Senator that, notwithstanding what the President may have said in response to a question and notwithstanding what the Republican leader may have said in response to a question, we are certainly willing to have the majority leader bring the nomination to a vote and to help dispose of it.

But I just cannot agree to waive that 2-day rule. I wonder if we might—myself, the majority leader, the Democratic and Republican whips—have a private meeting at the call of the majority leader.

Mr. BYRD. I wonder if we might agree to come in Saturday and have a day of debate? If this is what we want?

Mr. DOLE. Or Monday. Start on Monday.

Mr. BYRD. Both? How about Saturday and Monday? Let us have debate if what is wanted here, is debate. It seems to me that the longer we delay action on this nomination, the longer we delay filling the Supreme Court vacancy.

That does not do the Court any good, it does not do the country any good, it does not do the Senate any good.

The Republican leader, I say this with all respect, I know has his difficulties in a situation like this. I also feel he may have some problems at the White House to contend with.

As I asked this morning, if the White House wants an issue and our Republican friends want an issue, then they can have an issue by dragging this out and beating a dead horse. I think the conclusion is foregone and the longer we drag this out, the more difficult it is going to make it for the Senate to begin its work on the subsequent nominee and complete action on that nomination.

So, what is it that the Republicans want? Do they want an issue or do they want a judgeship?

We can come in Monday. I would suggest that all of our friends take home the report. It will be available tomorrow, hopefully afternoon. Take it home over the weekend. Read it. It is 480 pages, I am told. And let us come in Monday and begin to debate this nomination.

Or, if the Republican leader feels that he cannot waive the 2-day rule, could we, in return, have a debate on Saturday, have a debate on Monday and vote no later than 6 o'clock p.m. on Tuesday? That will be 3 full days of debork—of debate—(laughter in galleries)—and we can vote on Tuesday.

Saturday, Monday, Tuesday: 3 days of debate. Vote at 6 o'clock p.m. on Tuesday.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. I think we may be nearing some agreement. I am not certain about Saturday, but I might even be willing to lay it down as the pending business Friday, come in on Monday. Then I do not know about a time agreement to vote. I might even get help on this from the distinguished minority whip. He has been putting together a program so we will know precisely how much time we are going to use. This is not going to be an effort to filibuster. We do not want to just have a turkey shoot in here, where everybody jumps up.

We are trying to construct the debate—make our case.

As far as I know, there will not be any issue. The issue is going to be whether he was fairly heard and whether the confirmation process is still as it should be.

I do not believe the White House or the Republicans are looking for an issue. I think many of us feel that Judge Bork is highly qualified; that he has impeccable credentials; that had his nomination been up here 2 years ago, it would have sailed through just as he did for the circuit judgeship without dissent in the Senate. Nobody even raised his voice when he was nominated for the circuit court. We would like to make that record. I assume some on the other side will disagree, but we hope it is going to be a lofty, high-level discussion and not an effort for us to go after Democrats and Democrats to go after Republicans.

I think, if I misstated that, then the minority whip, Senator SIMPSON, if the majority leader would yield to him——

Mr. SIMPSON. Mr. President, may I ask the majority leader whether he will let me be as candid and brief as I can?

Mr. BYRD. Yes.

Mr. SIMPSON. We are really working here to assure that we do not have a fillibuster. There is no need for that.

It is a painful experience. It is painful for Judge Bork. It is painful for Mary Ellen Bork. It is painful for his three children. Painful for the President. It is painful for all of us on both sides.

There is no attempt to stretch anything out or do anything that would lead to a "stretching out". I have been meeting with a group of people who are not on the Judiciary Committee who want to speak. They are here in this Chamber. There are people on both sides of the aisle. Not a great number, but, you know, we have talked about politics and politics and politics. Surely there has been a good deal of that. But right now there is no attempt to do something at the call of the White House or to bow to the will of the White House or to make political capital.

We often speak for everybody else in this Chamber. Let me just speak for AL SIMPSON. All I am doing in this case is done solely at my own stirring. I am not being commanded by anyone, instructed by anyone. I am doing it because I would not want to be a person 65 years old, or 56 years old, who had a remarkable record in my profession and with people that know me and suddenly appear to be some kind of a person I am not, some caricature of myself.

That is the only issue. In the debate are going to be the presentations of Senator DANFORTH, who was his student at Yale; there are going to be discussions of the points that came out, which are the flash points of the issue: sterilization, poll tax, Watergate, antiwomen, antiblack. Those are the things that have commanded the national debate and we are not going to go for hours. We are not going to go for days. But we are ready to lay it down, I think Friday night as the minority leader says, lay it down, come in Monday. I will have people here Monday to do the work. I do not know if that accommodates the chairman of the Judiciary Committee. If he has problems with that, we can have people that will just debate that one side.

Others can come in Tuesday to do the other side; work with any kind of accommodation and work toward a vote next week. That would be our whole hope.

That is the extent of what I am doing. I am not in it for anything else. I remember what the President said and the issue is no one believes in the independence of the legislative and the executive more than the majority leader. Let us have our independence and have it done. I can assure you that we want to give the other 86 who did not participate in the Judiciary Committee activities the opportunity to discuss this and that is what I want to share with the majority leader.

There is no other sinister motive, no desire to be obstructive. But there is a great desire to reconstruct the person of Bob Bork so the people 30 years from now will see that he is not quite as what was portrayed in what was, I think, a fair hearing but there was not enough time for either side.

It is the full Senate that is to do the advice and consent and that is what we should be doing.

Mr. BYRD. Mr. President, let me ask the Republican leaders: Do they intend to let the Senate get to a vote on this Bork nomination before the middle of next week?

Mr. DOLE. If I could respond to the majority leader I would say that the answer is almost an unequivocal yes. The vote would not be at the end of

the week from my standpoint. I hope much earlier than that, and I would be willing to try to get an agreement. I have been resisted by some on this side, but I just had a conversation with two of my colleagues who think we ought to get an agreement to vote on a certain time on Wednesday.

I will be happy to try to do that.

I do not disagree with the majority leader when he says we overdo a lot of things around this place, and we do have a lot of work to do.

My response would be, yes we will try for an agreement. I will have to discuss it with the distinguished Senator from Wyoming, who has sort of taken a leadership role on this. Maybe I can do that privately and after the next vote maybe we can nail that down.

Mr. BYRD. Mr. President, let me just say this. The distinguished Republican whip has said that he is acting in response to his own stirring. Mr. President, this is the President's nomination. It is not mine. This is the administration's nomination. The administration has an opportunity to fill this seat, the vacancy, on the Supreme Court. Who is here trying to fight to help get this seat filled? The majority leader of the U.S. Senate, who belongs to the opposite party. The administration ought to be trying to get that seat filled. We can give Mr. Bork a vote. I hope we will have an up or down vote on Mr. Bork.

But remember this, it could be a tabling motion, which would stop the debate. I do not want to resort to that. I hope I will not have to.

But here I am trying to fight to get this administration to get a nomination up here, get the way cleared, get all the brush and the briars out of the way so the administration can send another nomination up here and get it acted upon before we go out for sine die adjournment.

Who is opposed to this? Mr. President, this does not make sense. Everybody knows what is going to happen on this nomination of Mr. Bork. I think everybody should be apprehensive concerning the kind of debate, the invective, and the contumelious charges that will be made, with a bitterness that can spill over into the next nomination.

I have not asked one Senator how he is going to vote in all of this time. I have not asked one Senator to vote against the Bork nomination. I have not once asked anybody, "What is your vote count?"

I have tried to stay above that as majority leader in this instance. That is no criticism of those who might have done otherwise.

But nobody can charge this Senator with being unfair. Nobody can charge this Senator with trying to stack the deck against Mr. Bork.

I just want to get on with what is my responsibility. That is my stirring, and I want to get on with what I see is the responsibility of this Senate.

It seems to me that if this administration wants something other than an issue, if it really wants to get a judgeship confirmed, then it ought to cut out the temper tantrums and let the dead past bury its dead. Let us have a vote here. There is time to get another nomination to the Senate and to get it confirmed. But each day we dillydally and delay is 1 day later if not more before the Senate can get to another nomination.

We will soon be down to Thanksgiving, and Senators will want to go home for Thanksgiving. Then we get into December and everybody will want to go home for Christmas. Then we have New Year's.

The time is now. I am telling you, time, precious time, is being wasted.

I want the country to know that this Democratic leader wants to get on with the Senate's work. I have not treated anybody unfairly. I have not been charged with treating anybody unfairly. But it seems to me we ought to cut through all this mist and fog and get on with the vote on this nomination. Give this man his vote and give the President a vote this week. He asked for a vote this week. There are very few people around here who are going to take a 400-page report home and really read it, few people. We all know that.

I will say to the distinguished Republican leader I intend to ask unanimous consent—not right now, but before the day is over and again tomorrow if I cannot get it today—that the Senate proceed to the consideration of this nomination by Friday and that we vote, in any event, by 6 o'clock p.m. on Tuesday next. We can come in Saturday and we can stay in as late as Senators want. We can come in Monday and we can stay in as late as Senators want. We can debate this. But we have other work to do and we have a Supreme Court vacancy to fill.

This delay, I can see very clearly, is not working to the good of anyone. It is not going to be helpful to Judge Bork or to his wife and family. It is not going to be helpful to the President of the United States or to the Court, or to the Senate, or to the country.

Mr. President, I yield to the distinguished Senator from Ohio.

Mr. METZENBAUM. I thank the majority leader.

I appreciate what he has been saying in attempting to move the Bork nomination to a vote. I do not want to address myself to that issue. What concerns me as a member of the Judiciary Committee is what happens next. I am concerned that when the next nominee is sent up, suddenly the drumbeats will roll and the bugles will blare and the editorials will be written and the Judiciary Committee will be called upon to move with dispatch and without delay to the confirmation of the second nominee. I think that is an unfair burden to place upon the Judiciary Committee. If we adjourn within 30 days, which is the approximate time we are supposed to adjourn, if we should vote on it next Wednesday, then it is conceivable that we would not be able to get to the confirmation of the next nominee.

Nobody is attempting to do that, but if that is the reality of the situation, that we cannot conduct our hearing, we cannot do the necessary investigation, we cannot do that which we are obligated to do as Members of this body and we are crowded to move more rapidly than makes good sense, then it is we who will carry the burden of blame.

I think the fact that the majority leader is attempting to facilitate and move this matter forward, indicating that as of the first of the week he was ready to schedule the Bork nomination for debate, indicates the fact that there is no desire to come to the situation where we might be adjourning without being able to fulfill the vacancy on the Supreme Court.

That is a possibility. The longer we delay I think the more it makes that possibility into a reality.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. I yield to the distinguished Republican leader.

Mr. DOLE. I do not disagree with anything anybody has said, I guess. I am not certain. But I do believe that we are not delaying here. I read the Sunday Boston Globe, where it said that "On July 8, KENNEDY met with BIDEN and Senators HOWARD METZENBAUM and ALAN CRANSTON to work on strategy. The first point was to gain time to organize against the nomination. So a decision was reached that there be no hearings until after the August recess.

To me, that was a strategy to delay. There was a meeting. I do not know whether all these people attended but that is what is in the paper. That may not be accurate.

There is not any strategy here to delay. We are talking about debate, if it starts on Monday and ends sometime Wednesday, we are talking about 2½ days to debate this nomination. We are talking about 2½ days to discuss a nominee who waited 72 days—72 days—for a hearing in the Senate Judiciary Committee; 2½ days versus 72 days is quite a difference. I would hope we could just agree on that. I am willing to try to reach a time certain. I think some of my colleagues, though they do not want to carry it on, are fearful they might get down to 6

o'clock Tuesday or whatever and somebody might not have spoken.

But I am willing to try to work out a time agreement with the distinguished majority leader. We do not want to delay. But at the same time, we want to make certain that the nomination has been discussed in a way that we think it should be discussed. I am not singling anybody out on either side. Maybe this nominee is not entitled to that. I think he is. I discussed this with the distinguished Senator from South Carolina, the ranking member on the Judiciary Committee, who is willing to cooperate and I think has expressed some willingness to try to work out a time certain.

So I would just say to the majority leader, knowing the frustrations of leadership, that I think maybe after the next vote, the two of us could perhaps announce some agreement.

Mr. BYRD. Mr. President, I hope we can. I hope it can be by 6 o'clock p.m. Tuesday or no later, no later, may I say to the distinguished Republican leader, than noon, say, on Wednesday.

Mr. BIDEN. Will the Senator yield?

Mr. BYRD. Yes, I yield to the distinguished chairman of the Judiciary Committee.

Mr. BIDEN. Mr. President, I had not intended to speak to the Boston newspaper that was just spoken to. Let the record show that the first person to whom I spoke about a date for scheduling these hearings was none of my Democratic colleagues but the leading Republican, a member of the leadership of the Republican side, the first person with whom I spoke about when to schedule the hearings. Let the record also show that no one seriously entertained the notion of starting the hearings prior to the recess.

Let also the record show the Senator from Delaware was prepared to start the hearings during the recess. And let the record further show that the only debate was whether they should start September 14, 15, or 17, not whether they should start prior to that.

Now, one other point I would like to make. No matter what happens in the outcome of this nomination—obviously, if Judge Bork were to by some change of events be confirmed by the Senate, then the point is moot. But if Judge Bork is not confirmed, as I think most anticipate on both sides of the aisle, then the Senate Judiciary Committee is going to have to start to hold hearings again. Let us leave aside Judge Bork. As to the previous two nominees under Republican leadership, the Republican-controlled Senate, Republican-controlled Judiciary Committee, and the Republican-controlled White House, it took the better part of a month before the hearings were able to begin. There is a simple reason for that. The reason is the FBI clearance, the ABA clearance. I do not know how people compute around here, but we are talking about a highly improbable situation, if you are going to be thorough, without any delay, just using as an example, the previous two Republican nominees under a Republican-controlled Senate, of having the hearings underway and/or concluded prior to Thanksgiving.

Now, maybe we are going to be in here until Christmas. I do not know. I am prepared to come in and hold these hearings whenever they are ready to go, based on the White House and the clearances and our own investigation to prepare for the nomination. But I do not want anybody operating under any illusions—and I would yield at some point, though I do not have the floor, to the ranking member, Senator THURMOND—that from the day the nomination is sent up, whomever it would be, to the time we can complete the hearings will be less than several weeks. It would be unprecedented in recent time.

I do not know how that gets done. Now, obviously, if they send a Senator THURMOND, the whole matter will only take a couple days. If they send us some people in here, we could maybe waive the hearing. But we are likely to be sent someone we do not know a great deal about. I should not say likely. That is possible.

So the idea that we are going to be able at the conclusion of these hearings, assuming the President gives us a name the moment after the vote count is made, to get underway, follow through with and complete the hearings, and vote on the Senate floor prior to the target date for adjournment——

Mr. BYRD. Mr. President, may we have order in the Senate and have someone stand at the door and keep the door closed.

Mr. BIDEN. I assume they are clapping for me. I do not know why for sure. But at any rate, the chairman of the committee has no intention of delaying this. Obviously, we cannot control if our Republican colleagues do not want to vote. I thought it was interesting that the Republican whip, a man for whom I have great affection and complete faith in and take him at his word absolutely, said that "We"—I assume he meant the Republican leadership—"are trying to stop a filibuster." What a bizarre notion, filibustering a Republican nominee sent up by a Republican President to fill a vacancy on the Court when that nominee already has 54 people voting against him. Is the idea to wait? Are they so certain that GEORGE BUSH or BOB DOLE is going to be President they would like to filibuster and have DOLE or BUSH choose the nominee instead of Reagan? I do not quite understand this—to stop a filibuster? This is bizarre. When this all started everybody, my colleagues, left and right, Republican and Democrat, and the press, asked me, "Will you participate in a filibuster?" This was back in July. I said, "No, I will not participate. I do not want to filibuster." Everyone assumed that we Democrats would be talking about a filibuster. And here we have the Republican leadership having to try to stop a filibuster. I assume everyone knows he is not talking about any Democrat talking about filibustering.

I hope the Republican leadership is successful in stopping a Republican filibuster. I hope we can get on with this because, as the distinguished ranking member of the committee and former chairman of the committee, who is on the floor, can tell you, it is virtually impossible to gear up the committee, do the proper investigation, hold proper hearings, write a report, and report back to the Senate as a whole in a matter of a couple weeks. I do not know how that gets done. I have never seen it done in recent times.

So I share the majority leader's frustration. And I understand and share and sympathize with the frustration of the minority whip. But I would hope we could start Saturday, start tomorrow but agree that the vote would take place on Tuesday and give everybody time to make the case, put it in the RECORD.

I thank the leader for yielding.

Mr. SIMPSON. Mr. President, will the majority leader yield?

Mr. BYRD. Yes, I will be glad to yield to the distinguished Senator. While I am yielding, I hope that Senators who have their amendments to the Labor-HHS appropriations bill will come to the floor. Both managers have indicated a willingness to stay until we finish this bill today. So I hope Senators will be ready. I yield to the distinguished Senator.

Mr. SIMPSON. Mr. President, I thank the majority leader. Just quickly, here is where we are. We have a report that will not come out until tomorrow and we are unable to waive the time. So we are ready to go to work Monday. None of us are ready to go to work Saturday. I think there are some very artful Members who would try to say if there was no quorum present we could not do work Saturday. All of us, I think, are ready for the Friday and Monday activity. So that would be difficult. But the point is we are ready to go Monday and will have people here. So I think that shows our good faith.

I respectfully say to the majority leader that I would object to a time

certain to vote at 6 o'clock Tuesday or 6 o'clock Wednesday. I say to the majority leader that there was not a single person involved in these discussions who wanted to go beyond this next week. Nobody wants to go past next week. But I cannot in any good conscience say Tuesday or Wednesday.

But my hunch is that after they express themselves for a couple of hours, and there are several who want to, who feel it is very important to state their case about Judge Bork, then we would be ready to go and very likely get a time certain for Thursday or Friday without question.

The only reason we want to extend that is that those who are opposed to Judge Bork might want to speak, and might want to not yield. That happens. We both know that in our work in the leadership. Those who support the Bork nomination just want to get the full story told. If there were an agreement to vote by a time certain, that might not be the case.

So that is what we are doing. I shall never ever use in an inartful way the word "filibuster" again like that because it really would not be too dazzling to do that kind of filibuster—although it has some charm. The minority and the majority whip talked. I said "What if we were just to filibuster and say 'We are going to filibuster until you accept Judge Bork?'" That would be a bizarre kind of a filibuster. I would not want to be involved in that. But I would not ever use that term. It is a good lesson. But we are not here to delay. I can promise you that. You will see that unfold.

I guess the proof of the pudding will be in the eating, and that is what we have to present. We have some very serious people who want to talk not because of the White House and not because of what may or may not happen, but because of a man's reputation in the United States of America that can be looked at 30 years from now, and be perceived as a rather reasonable human being and not some bizarre extremist.

Mr. BYRD addressed the Chair.

Mr. THURMOND. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. President, I yield to the distinguished Senator. Yes.

Mr. THURMOND. Mr. President, I felt I ought to make a statement in view of what the able chairman of the committee said. I stated after the hearings that the chairman, Senator BIDEN, has conducted the hearings in a very fair and reasonable manner. I will repeat that now. However, I did write him and urge we start the hearings sooner. I am sure he will agree to that.

Mr. BIDEN. That is correct.

Mr. THURMOND. I thought we should have held them in August so we could have gotten through so this man could have been on the Supreme Court, whoever it is going to be for the October session. So I wanted the record to be corrected in that respect.

It is my opinion, and some of my Members on this side are not in accord with it, there are some who do not want any agreement at all to limit the time. But I feel it would certainly suit me if the majority leader sees fit to limit this time, and I would suggest, and I told him this, that if we could set a time by next Wednesday night, vote by Wednesday night, I think that might be a reasonable time to vote.

Mr. BYRD addressed the Chair.

Mr. BIDEN. Will the majority leader yield 30 seconds?

Mr. BYRD. I thank the distinguished Senator. I yield for 30 seconds. I do want to get on with this bill.

Mr. BIDEN. I want to say with regard to the comment that the minority leader had indicated about delaying the hearings that the minority leader was one of the people who introduced Judge Bork. I would like to read from the RECORD the words of Senator DOLE.

Now it has been some time since this nomination was made. I would say at the outset some of us were critical of that. But I would guess in retrospect it may have been taken that much time with the August recess to prepare for these hearings. Let's face it. There is a tremendous interest across the country. Wherever you go—and some of us go a lot of places—this is generally question number one or two at any town meeting in America. So the American people are tuned in. The American people are ready for a fair and impartial and tough hearing.

Again, the only point I am making is no one seriously though we could start before sometime in August. And the ranking member indicated August. But he was one of the lone voices wanting to start in August. I just want the RECORD to show that.

Mr. BYRD addressed the Chair.

Mr. THURMOND. I just want to make it plain that I felt the hearings should start sooner, and the chairman of the committee and I have had good relations as we do now, but he did not see fit to start sooner. And then I told him to set it as soon as he could in September. I preferred to start the 8th of September. He said the 15th. We cooperated with him.

I feel this matter can be handled. It should be handled. There should be no undue delay. I think we ought to go ahead and get it settled. I told the majority leader it was my opinion that we could vote by next Wednesday night.

Mr. BYRD. Mr. President, I hope the distinguished Senator from South Carolina's views will prevail on the other side of the aisle. The distinguished Republican whip has spoken in terms of Thursday or Friday of next week.

Mr. President, if this was January of 1987, it might be all right to talk in those terms. But after next week, if we were to take this Bork nomnination through Thursday and Friday of next week, I cannot for the life of me understand what is to be served by that kind of delay.

The only thing I keep getting out of this as to why we have to spend another 4 or 5 days before we vote on this nomination is for some reason or other, it gets back to Judge Bork and his sensitivities. We have got to do this for his sake, we are told.

I do not know why Judge Bork would want to be put on the rack here with a debate that is strung out. It seems to me that we ought to all send our expressions of goodwill to Judge Bork and get on with filling the Supreme Court vacancy. There are those who keep talking about the need for a long debate because of some arcane esoteric reason that I have been unable to understand thus far except it all gets back to Judge Bork. Everybody admits that Judge Bork's nomination is going down the drain. It is going down, d-o-w-n. Newton's political law of gravity is going to pull that nomination down. It is already on the ground. It is just waiting for the scoreboard.

Why we want to run the Senate through 3, 4, or 5 days for Judge Bork's sake—is Judge Bork more important than the people of this country? Is Judge Bork more important than filling the vacancy on the Supreme Court? It seems to me that we have our values standing on their head.

It is a rather strange phenomenon, I would say, to find the majority leader standing up here urging that we get on with filling this vacancy with another nomination that will be sent up from the White House by a Republican President who loses no opportunity to excoriate the Congress every opportunity he gets. He wants confrontation all the time.

I am saying let us not have confrontation. Let us vote on the Bork nomination, vote on it up or down, and open the way for another nominee to have his qualifications considered by the committee.

The more time we waste—that is what we are doing if we string this out—the less fair it is going to be to the next nominee because his time is being crowded more and more. And the adjournment target date was November 21 that the distinguished Speaker and I, Senator DOLE, and others, had talked about. If we are going to take all of next week on the Bork nomination, that leaves only 4 weeks.

So for those who really want to see this vacancy filled this year, it seems to me it is counterproductive, and it just does not make sense to drag this

matter out day after day after day. Mr. President, I hope that we can agree at the very least to vote on this nomination no later than 12 o'clock noon on Wednesday.

I am happy to leave it at that for the moment. I hope we will get back on the Labor-HHS appropriation bill. The two managers are ready to take up amendments.

Mr. President, I yield the floor.

ASSASSINATION OF HAITIAN PRESIDENTIAL CANDIDATE YVES VOLEL

Mr. KENNEDY. Mr. President, yesterday morning, a brutal assassination occurred in Haiti of one of that country's presidential candidates, Yves Volel. Over the last months, riots, murders, thefts and violence have become almost commonplace in Haiti. One presidential candidate, Louis Eugene Athis, has been stoned and hacked to death. Gangs of thugs have been terrorizing poor neighborhoods, rounding up and beating scores of innocent civilians and shooting at random into homes. Former Tontons Macoutes and government security personnel have been involved directly in many of these incidents.

The Haitian Interim Government has continued to deny any involvement in these campaigns of terror. When indisputable evidence has surfaced linking its security forces to these atrocities, it has attributed the acts to rogue elements of its security forces. But yesterday's incident shows beyond a doubt the direct involvement of the Haitian security forces in the brutal assassination of one of the opposition's presidential candidates.

I urge my colleagues to open this morning's Washington Post to page A24. On that page is a large picture of Yves Volel speaking peacefully into a microphone moments before he was murdered. He is standing just yards in front of the police department headquarters of Port au Prince—the department's sign is clearly visible in the photograph.

According to eyewitnesses—which included many journalists—Mr. Volel had gone to the police department to protest allegations of torture and detention without trial of a human rights activist, Jean Raymond Louis. He ended his statement saying, "I have the Constitution in my left hand and my robe as a lawyer in my right hand. I am going to go inside and defend this man's constitutional rights." Just as he finished speaking, a group of plainclothes security personnel came out of the police headquarters and started to beat Volel. As he lay on the ground, one of the men pulled out a gun and shot him twice in the back of the head.

The chief of the Haitian police said in a statement shortly after the murder that Mr. Volel had tried to free a prisoner by force and had died in an exchange of gunfire. But the facts and eyewitness accounts are quite different—Yves Volel was murdered by Haitian security forces right in front of the police headquarters.

Since the flight of the Duvalier regime last year, the people of Haiti have been struggling to establish a just and free democracy in their land. Last March, the people approved overwhelmingly a new constitution. They have placed high hopes on the presidential elections scheduled for November 29. But no democratic elections can occur under the current reign of terror, intimidation and blatant rejection of the rule of law.

Last week, I began circulating with Senator GRAHAM of Florida and Congressman FAUNTROY a letter to the head of the interim Government of Haiti, General Henri Namphy. That letter protests the deterioration in the human rights situation in Haiti and reminds General Namphy of the provision in U.S. law which ties continued assistance to progress in respect for human rights. Under the law, we must cut off aid unless the government has made a substantial effort in preventing the involvement of the Haitian armed forces in human rights abuses, ensuring that freedom of speech and assembly are respected, conducting investigations of killings of unarmed civilians and in educating the Haitian armed forces to respect human, civil, and political rights. The Haitian Government flunks each of these tests of democracy.

Let me invite my colleagues to join me in writing to General Namphy. I intend to send the letter this afternoon. The United States must not repeat the mistake it made during the Duvalier era and look the other way on human rights abuses. We will not continue support to a government that violates the rule of law and the human and civil rights of its people.

Under the current chaos, no free and fair elections are possible in Haiti. Unless the Government of Haiti can guarantee the safety, security, and freedom to campaign of its presidential candidates, the elections will be a farce. So long as the murderers of Yves Volel are at large, if his assassins are not brought to swift and certain justice, there is no rule of law in Haiti.

The people of Haiti have suffered too long from the Duvalier excesses and repressions. We must not permit the corrupt crony system left over from that regime to snatch democracy from the Haitian people. The interim Government of Haiti bears a solemn responsibility to ensure the peaceful, just, free and fair transition to a democratic form of government. It has failed miserably in that task to date. Unless it takes dramatic steps to reverse this rapid deterioration into anarchy, it risks losing U.S. economic, military, and political support—as well as the country's chance to join the democratic nations of the world.

I ask unanimous consent that two articles from this morning's papers and an account from the National Coalition for Haitian Refugees relating the details of this murder may be printed in the RECORD, as well as the text of our letter to General Namphy.

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

[From the Washington Post, Oct. 14, 1987]

HAITIAN CANDIDATE KILLED AT POLICE POST—PLAINCLOTHESMEN SHOT PRESIDENTIAL CONTENDER, WITNESSES DECLARE

PORT-AU-PRINCE, Haiti.—Police shot and killed presidential candidate Yves Volel today as he delivered a speech in front of police headquarters to demand the release of a prisoner, witnesses said.

Plainclothesmen beat and shot several times at Volel, who was struck once in the head and died instantly, Radio Metropole reported. A reporter for TeleHaiti corroborated the account.

Police cleared the area of bystanders and reporters and photographers' cameras were confiscated. The body was taken to the State University Hospital morgue.

In a communique from police headquarters, police did not address allegations that they killed Volel. They said he had been armed and that they were looking for "his accomplices."

Businesses in the area near the National Palace shut and barred their doors in apparent anticipation of further violence.

Volel, an attorney, was a minor candidate for president but a persistent critic of the governing junta of Lt. Gen. Henri Namphy. Volel's center-left Christian Democratic Rally, formed last year, is an off-shoot of the larger Christian Democrat Party of Sylvio Claude.

Volel invited reporters to accompany him to the police station, where he demanded the release of Jean Raymond Louis, who allegedly has been held without trial for the past month.

"They arrested Louis without a warrant for political reasons," Volel told Radio Metropole in an interview broadcast yesterday. "The constitution forbids that and says everybody has a right to a lawyer, so I will go at 10 a.m. [Tuesday] to offer him my services."

Volel supported the antigovernment strikes and demonstrations of June and July that shut down Haiti's major cities. He carried a Colt .45-caliber revolver. In July, Volel said he was attacked by armed men who sprayed his jeep with machine-gun fire. He claimed he returned fire.

Volel is the second presidential candidate to be killed this year. Louis Eugene Athis was hacked to death in August on the steps of a church by peasants who accused him of being a communist.

Volel, 54, was one of about 30 candidates who have registered to run for president in the national elections set for Nov. 29.

[From the New York Times, Oct. 14, 1987]

HAITIAN CANDIDATE KILLED BY GUNMEN

POLICEMEN ARE SUSPECTED—VICTIM AN EX-NEW YORKER

(By Joseph B. Treaster)

MIAMI.—A Haitian presidential candidate was shot to death this morning in front of the police headquarters in Port-au-Prince as he delivered a speech demanding the release of a prisoner, witnesses and diplomats said.

Witnesses said the candidate, Yves Volel, an outspoken 53-year-old lawyer who had taught mathematics at the Dalton School in Manhattan during more than 15 years in exile, was rushed by several men believed to be plainclothes policemen. They said he was killed with a single shot to the head.

Mr. Volel, one of 30 candidates who have announced intentions to compete in elections on Nov. 29, was the second political leader to be killed in the last three months. In August, Eugene Athis, the leader of a moderate party, was hacked to death by peasants as he tried to address a rally in a church courtyard in a village south of Port-au-Prince, the capital, and his body was burned.

GOVERNMENT IS CRITICIZED

Mr. Volel was not considered a frontrunner, and Mr. Athis was not a candidate, but their deaths reflected the anarchic climate in Haiti, and raised grave questions about the possibility that free elections can be held.

There was nothing to implicate senior Government officials in the deaths, but the Government is being criticized by many Haitians for failing to maintain security in the country.

René Belance, a spokesman for the civilian electoral council, said the council was preparing a statement. But he said: "I cannot imagine that in a civilized country this kind of thing can happen. It means we are still in a crisis. I don't know how we are going to make it."

Since the fall of the dictatorship of Jean-Claude Duvalier, life in Haiti has been a series of crises. During the summer, the army-dominated provisional Government headed by Lieut. Gen. Henri Namphy briefly seized control of the electoral process from the civilian council. Even after General Namphy's government reversed itself, street demonstrations continued, and before the end of the summer soldiers had killed more than 35 civilian protesters, many of them at point-blank range.

Mr. Volel had gone to the police headquarters which is across the street from the Presidential Palace, with a group of reporters, several Haitian news executives said. Some photographers and a television crew from Télé Haiti, an independent local station, filmed the shooting, the executives said, but their cameras and film were confiscated.

Walter Bussenius, general manager of Télé Haiti, said his crew members said they were assaulted by plainclothesmen and that Mr. Volel was shot as he was coming to the end of a statement about constitutional rights.

He said Mr. Volel told the journalists: "I have the Constitution in my left hand and my robe as a lawyer in my right hand. I am going to go inside and defend this man's constitutional rights."

Then, Mr. Bussenius said, "He turned around and was shot. That was it. The cameras were yanked."

Stores and offices in the area pulled down their shuttters, apparently in anticipation of further violence, but by late afternoon none was reported.

The chief of police, Grégoire Figaro, said in a statement a few hours later that Mr. Volel tried to forcibly free a prisoner and died in an exchange of gunfire. He said there had been a dispute that lasted 10 minutes. The police chief did not indicate who fired the fatal shot.

The police chief said Mr. Volel arrived at the police headquarters accompanied by armed men, but made no mention of the journalists.

The statement said Mr. Volel had been armed with a Colt .45 pistol and gave a serial number of a weapon. Mr. Bussenius said his staff members told him Mr. Volel was not armed.

Mr. Volel, a tall, husky man with a quick temper, was a former Haitian Army officer and graduate of the Haitian military academy. He competed for Haiti in the early 1960's in international marksmanship competitions.

During the summer, Mr. Volel told reporters that a carload of men pulled alongside his car on a street in the capital and sprayed machine-gun fire at him. He said he returned the fire with his .45 and said he thought he had hit one of his assailants. At one news conference, Mr. Volel carried his .45 tucked in his waistband.

A TEACHER AND ORGANIZER

For more than 15 years, while he wrote newspaper articles and organized meetings of political refugees from Haiti, Mr. Volel taught mathematics at the Dalton School, on the Upper East Side of Manhatten.

Former colleagues and students at the school said yesterday that he had frequently spoken about the role he hoped to play when he returned home.

A former student of Mr. Volel's, Peggy Edersheim, who graduated in 1982, said that she had spoken with Mr. Volel by telephone in March and that he had sounded "incensed" by the Government's lack of progress in improving conditions in the impoverished country.

When the Duvalier family's 28-year grip on the nation was severed early last year, Mr. Volel arranged a leave of absence and went back to Haiti.

NATIONAL COALITION
FOR HAITIAN REFUGEES,
New York, NY, October 13, 1987.

Hon. GEORGE SHULTZ,
Secretary of State,
Department of State,
Washington, DC.

DEAR MR. SECRETARY: The United States must take immediate action to disassociate itself from the Haitian military junta because of the rapid deterioration in the human rights situation in Haiti, and in particular because of the rising tide of killings by the Army and by paramilitary death squads.

Just this morning another presidential candidate was murdered in cold blood in front of the Port-au-Prince police headquarters in open view of a group of radio and print journalists. Mr. Yves Volel, a lawyer and the candidate of the Coalition of Christian Democrats (RDC) was shot in the head by someone known to be a detective for the Criminal Investigations Bureau of the Port-au-Prince Police Department, after he was brutally beaten by a group of detectives who attacked him as he attempted to enter the police headquarters to investigate the circumstances of a prisoner who had reportedly been badly beaten in detention at the Casernes.

This political assassination by the Haitian security forces comes on the heels of a patently illegal detention and unconstitutional forcible exiling to Canada on October 10, 1987 of Mr. Daniel Narcisse, a well-respected sociologist and economist. Both incidents can only be understood as attempts to silence government opponents and to terrorize further the Haitian population just weeks before Haiti's local elections on November 15 and national elections on November 29, 1987.

Since late June, the Haitian Army has shot and killed at least 53 persons in the capital alone and has seriously wounded scores of others in the Port-au-Prince area in attacks on journalists, peaceful demonstrators, and in raids in poor neighborhoods. It is impossible to calculate the number of those killed in Haiti's rural areas where 80 percent of the population resides, but the toll is very high. Army terror has been complemented by resurgent violence from paramilitary death squads.

The United States has repeatedly emphasized how important it believes these elections are both for Haiti and the future of relations between our countries. By not also publicly insisting that the CNG respect human rights during this pre-electoral period, the United States has undermined the very electoral process it values so highly. Is it really possible to talk about free and open elections if people are being shot in the streets, if presidential candidates are openly murdered by police, if investigations of recent security force abuses are systematically refused, if major trade unions are banned in violation of the Constitution, and if the independence of the civilian Electoral Commission is repeatedly threatened?

The assassination of Presidential candidate Volel is an example of the willingness of the Haitian security forces to go to any length to silence perceived opponents and to achieve their goal of terrorizing the population, by demonstrating that everybody is in danger of being killed for any reason or no reason at all. Journalists from Télé Haiti report that just as Volel reached the Criminal Investigations Bureau, detectives armed with revolvers came out and started to beat him. Finally one officer simply executed him with two shots to the head. The reporters from Télé Haiti were also beaten, their equipment damaged and their film of the incident confiscated. Volel's body remained on the ground for approximately 45 minutes where it was viewed and the details of this story are confirmed by human rights organizations affiliated with the National Coalition for Haitian Refugees.

The forcible exiling of Professor Daniel Narcisse is not only a direct violation of the new Haitian Constitution (Article 41), but it harks back to the days of the Duvalier dynasty when perceived opponents were regularly thrown out of Haiti without charge or trial, convicted in absentia, and their property was seized by the Duvalier family. The United States should join with Canada and denounce this practice and inform the officers ruling Haiti that we will no longer tolerate such disregard for international law.

The legal status of Mr. Narcisse is well known to the NCHR and Americas Watch. Until the new Constitution was published in late March 1987, it was possible for a Haitian national like Mr. Narcisse to possess dual nationality. Mr. Narcisse had been forced to flee to the Brazilian Embassy in June 1967 under death threats from the Du-

valier secret police and was given safe conduct out of Haiti in January 1968. He was later tried in absentia, sentenced to death, and all his belongings were seized by the Duvalier government.

The Constitution of March 1987 does not allow dual nationality but addresses itself to the situation of exiles like Mr. Narcisse in Article 286, specifying that any Haitian who received foreign nationality in the 29 years before February 7, 1986 may recover Haitian nationality by a simple declaration made to the Minister of Justice within two years of the date of the publication of the Constitution.

The National Coalition for Haitian Refugees possesses copies of letters from Mr. Narcisse that confirm that he fulfilled all the requirements to the best of his abilities. Mr. Narcisse wrote on April 17, 1986 to Justice Minister Francois Latortue requesting restoration of his Haitian citizenship. This letter was officially received by the Ministry of Justice on April 25, 1986. A shorter version of this letter was delivered to all members of the military-dominated CNG. Following the promulgation of more specific requirements to reclaim Haitian nationality, Mr. Narcisse renewed his request before Justice Minister Francois St. Fleur on May 11, 1987 in a letter received by the Minister's office on May 13, 1987. In this letter Mr. Narcisse renounced his Canadian nationality and renewed his request for the restoration of his Haitian nationality and all the rights and obligations flowing therefrom.

United States economic assistance to Haiti is conditioned on a determination by the President that the Government of Haiti is improving its human rights record and is establishing a framework for free and open elections leading to a democratically-elected civilian government, including freedom for political parties, associations, labor unions, and the press. U.S. military aid to Haiti is tied to a Presidential certification that the Government of Haiti is making substantial efforts to prevent the involvement of the Haitian Armed Forces in human rights abuses and corruption, and is ensuring that freedom of speech and assembly are respected. The evidence is clear: the interim government is in gross violation of each of these provisions.

Mr. Secretary, responsible Church, legal and human rights organizations in Haiti are increasingly bitter about the seeming willingness of the United States to do along with the brutality of the Haitian military. Our government is widely vilified as the only real support for these officers because we have refrained from publicly criticizing these violations; and because we have certified human rights improvement by the Haitian military and forwarded increasing military aid to the officers doing the killings.

The United States must break with this military violence, and announce our opposition to these killings, and an end of all military aid to the Haitian security forces. Our military trainers should be withdrawn immediately. We should also suspend all economic aid until after the November elections both to indicate our opposition to these violations of human rights and the undermining of the very electoral process we champion. In the current atmosphere of violence and intimidation little of our aid is reaching the Haitian people.

As important as the diplomatic message that the United States delivers to Haiti's military junta is the public message that we deliver to the Haitian people. The United States should reassure Haitians publicly of our commitment to democracy and to human rights and make known that we condemn and will no longer tolerate killings by the Haitian security forces.

Please let us know of your specific plans to respond to these developments in Haiti.

Michael S. Hooper, Esq., Executive-Director, National Coalition for Haitian Refugees; Aryeh Neier, Vice-Chairman, Americas Watch.

CONGRESS OF THE UNITED STATES,
Washington, DC, October 14, 1987.

General HENRI NAMPHY,
President, National Governing Council, Port-au-Prince, Haiti.

DEAR GENERAL NAMPHY: We are writing to express our deep concern over the alarming deterioration in the human rights situation in Haiti over recent months and to urge you to take strong and swift measures to end the violence. The current crisis threatens not only peace and stability in Haiti but also the transition to a free and just democracy.

Such a transition to democracy in the post-Duvalier era requires a protection of the people's basic human and civil rights, including freedom of assembly and association, of the press, of labor unions and of speech. While the elections scheduled for November 29 are critical to the establishment of democracy, unless they occur in the context of these basic freedoms, the elections will not be considered legitimate by the people of Haiti—or of the United States.

We are gravely alarmed by the assassination yesterday of presidential candidate Yves Volel—directly in front of police headquarters, reportedly by members of the Haitian security forces. We urge you to conduct an immediate and full investigation to bring the murderers to justice as soon as possible.

This murder appears to be part of a pattern of incidents threatening the civil and political rights of the Haitian people. In particular, we are alarmed at the direct involvement of the Haitian security forces in a series of attacks on unarmed civilians and in raids on poor neighborhoods which have resulted in scores of deaths and injuries and untold damage to property. Foreign and domestic journalists have been attacked, as have been priests and community leaders working to implement democracy in your country.

We are also concerned about the interference of the Haitian government in the critical work of the Provisional Electoral Council and its failure to demonstrate any meaningful commitment to investigate human rights abuses.

The current situation threatens the implementation of the constitution and the establishment of democracy in Haiti—as well as the continuation of U.S. aid to Haiti. Current United States law conditions military assistance on substantial efforts by the Haitian government in preventing the involvement of the Haitian armed forces in human rights abuses, ensuring that freedom of speech and assembly are respected, conducting investigations of killings of unarmed civilians and in educating the Haitian armed forces to respect human, civil and political rights.

Over the recent months, the Haitian Government has failed to meet each of these tests of progress toward democracy. The United States Congress will not continue to support a government that shows a flagrant disregard for the rule of law.

In February 1986, you committed yourself to a government based on "absolute respect for human rights, press freedoms, its existence of free trade unions and the functioning of structural political parties". We urge you to fulfill that pledge in order to ensure a truly just and democratic government is elected on November 29th.

The PRESIDING OFFICER. The Senator from Florida, Mr. GRAHAM.

Mr. GRAHAM. Thank you, Mr. President.

I would like to ask unanimous consent that the remarks that I am going to be making follow those of the Senator from Massachusetts so as not to disrupt the debate on the appropriations bill.

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

Mr. GRAHAM. I yield.

Mr. BYRD. Mr. President, would the Senator indicate how long he will be speaking? I hope we can get some other Senators who have amendments to the pending bill on the floor to call up those amendments. The managers are here. We would like to finish the bill today.

Would the Senator indicate the time?

Mr. GRAHAM. Three minutes.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I would like to join in the remarks that have previously been made by the senior Senator from Massachusetts.

On July 30, the Senate unanimously approved a resolution calling on Haiti's ruling National Governing Council to conduct an open and free election as required under that country's new constitution.

Under the protection of that constitution, candidates rightly expect to be able to assemble and express themselves freely as they campaign for office.

We now have witnessed the sad occurrence of the second Presidential candidate to die in election-related violence in the last 100 days.

The death of Yves Volel raises very serious concerns about the interim government's commitment to establishing a framework for a free and open election.

The government has thus far failed to investigate either of these tragedies.

If there is to be any hope of a free and valid election, that policy and many others adopted by the government must change.

We can only hope that this tragic incident of Mr. Volel's death will spark those changes.

Mr. President, I have joined with Senator KENNEDY and Congressman WALTER FAUNTROY in expressing deep concern over the alarming deterioration in human rights in Haiti over recent months.

As Senator KENNEDY indicates, we have sent a letter which underscores that current United States law condi-

tions military assistance on substantial efforts by the Haitian Government to prevent involvement of security forces in human rights abuses.

Another condition is that those abuses be investigated. We intend to see that those conditions are complied with.

Mr. President, across the Caribbean basin there is a light of democracy. Countries which have suffered under decades of oppression are now entering into a new era of freedom, but democracy and the respect of human rights is not earned easily and will not be maintained without struggle.

The darkness which threatens to engulf Haiti underscores yet again that the protection of basic human rights must be a responsibility we all share.

Mr. President, the people of Haiti have made clear their support for democracy. They continue to risk their lives for democracy.

The National Governing Council must not stand in the way of the realization of that promise. These people who already have suffered too much for too long.

Thank you, Mr. President.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATION, FISCAL YEAR 1988

The Senate continued with the consideration of H.R. 3058.

Mr. CRANSTON. Mr. President, is the bill open to amendment?

The PRESIDING OFFICER. The Chair informs the Senator from California that the Weicker amendment is pending to the bill.

Mr. CRANSTON. I ask unanimous consent that it be set aside temporarily so that I may submit an amendment.

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

AMENDMENT NO. 965

(Purpose: To require the National Institutes of Health to take all possible steps to expedite clinical trials of drugs to treat AIDS and to ensure that a maximum number of individuals are able to enroll in clinical trials)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Mr. WILSON, proposes an amendment numbered 965:

At the appropriate place in the bill insert: "*Provided*, That, in administering funds made available under this Act for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as expeditiously as possible and with as many subjects as is scientifically acceptable".

EXPEDITING CLINICAL TRIALS OF AIDS TREATMENTS

Mr. CRANSTON. Mr. President, the amendment I am proposing would require the National Institutes of Health [NIH] to expedite getting drugs for AIDS into clinical trials and to enroll as many individuals with AIDS and AIDS-related complex [ARC] in those trials as is scientifically feasible.

Mr. President, like many of my colleagues here, last week I met with many of my constituents who traveled across the country to Washington for the march for gay and lesbian rights last Sunday. Tens of thousands of the participants had AIDS or ARC. Their presence demonstrated dramatically the dire emergency that the AIDS epidemic presents.

One message that was repeatedly expressed during my meetings was the belief—and the fear—that drugs to treat AIDS are not being developed or made available through clinical trials as rapidly as possible. I heard frustration and desperation. Yet, I also heard hope. People with AIDS and ARC want to participate in clinical trials—for themselves and for the sake of gaining information that may help find new treatments for others with AIDS or ARC.

Mr. President, in response to those concerns, the State of California recently enacted legislation appropriating $500,000 to implement a preexisting law authorizing the State government to approve certain experimental drug testing and new drugs. Only drugs manufactured in California could be authorized by the State for clinical trials, which would also be conducted entirely in California.

The California program is not intended to substitute for or to circumvent the FDA approval process. Rather, it is designed to spur development and trials of promising drugs. In order to help minimize or prevent duplication of effort, I contacted the FDA Commissioner, Dr. Frank Young, to urge that the FDA cooperate as much as possible with drug applicants who submit protocols under the California law.

I ask unanimous consent that a copy of my letter to Commissioner Young be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CRANSTON. Mr. President, the scientists of our country have made great progress in deciphering the cause of this disease and how it destroys the body's immune system. And, I know that much effort is now being directed toward developing more and better drugs and to testing those drugs through the AIDS treatment and evaluation units. Nearly 2,000 patients are enrolled in 1 of 27 protocols at 19 units across the country. But with tens of thousands of people suffering from this horrible disease, that is not nearly enough.

My amendment would simply require the NIH to make those efforts a top priority—to help ensure that as many people with AIDS and ARC can participate in clinical trials as is scientifically feasible, and that such trials proceed as expeditiously as possible.

I urge all my colleagues to support this amendment.

EXHIBIT 1

U.S. SENATE,
Washington, DC, October 9, 1987.

Dr. FRANK E. YOUNG,
Commissioner, Food and Drug Administration, Rockville, Md.

DEAR FRANK, I am writing regarding the newly-established program in California for the development and testing of drugs to treat AIDS. As you may know, on September 28 Governor Deukmejian signed Assembly Bill 1952, which appropriated $500,000 to implement a pre-existing law authorizing the State Government to approve certain experimental drug testing and new drugs. Only drugs manufactured in California could be authorized by the state for clinical trials, which would also be conducted entirely in California.

The proponents of the California program strongly support conducting carefully controlled clinical trials of AIDS drugs. In fact, the appropriations legislation specifically stresses that, as much as possible, the protocols for investigation new drugs should be similar to those approved by the FDA, so that the data obtained in those studies could also be submitted to the FDA for approval.

In addition, the law states that the provisions authorizing state approval of drugs should, to the maximum extent possible, supplement federal procedures to facilitate the development and testing of AIDS-related drugs and "be utilized, to the extent feasible, in cooperation with the FDA".

Thus, the California program is not intended to substitute for or to circumvent the FDA approval process. Rather, activation of the program grew out of a deep concern and frustration that too few drugs were being made available in clinicial trials for AIDS patients, that clinical trials involved too few persons, and that the testing programs took to long to establish.

In order to prevent or minimize duplication of effort, I believe that I would be extremely beneficial for the FDA to cooperate as much as possible with drug applicants who submit protocols under the California law. Thus, I urge that you give your full cooperation in ensuring that the protocols and clinical trials developed under the California program receive expedited attention and accelerated review at the FDA. Your doing so would make a substantial contribution to the overall success of efforts to develop new experimental AIDS drugs and would greatly facilitate such drugs being made available to additional persons with AIDS outside as well as inside California.

I would greatly appreciate your personal assistance on this matter of great impor-

tance to the people of California and, I believe, the entire country.

I look foward to hearing from you at your earliest convenience.

With warm regards,

Cordially

ALAN CRANSTON.

I understand that the amendment is acceptable on both sides of the aisle.

Mr. CHILES. Mr. President, we have looked at the amendment. I think it is something that NIH is working on right now and trying to seek all these treatments. I see nothing out of order with the amendment, and I think it is one that we can take.

Mr. WEICKER. Mr. President, I commend the distinguished Senator from California for his amendment.

There are two things I should like to emphasize, and I think it is important at the time we discuss the matter of AIDS.

No. 1 is adequate research funding. Let me assure the distinguished Senator from California and all others on the floor that the Senate can take great pride and he can take great pride for his leadership. We have consistently given all the funds necessary to the scientists to do the job, in the hope that one of these days we might find that particular medical miracle that will prolong life and, hopefully, eventually the vaccine itself.

Point No. 2 is the matter that the NIH is going slow. This is more or less addressed in the distinguished Senator's amendment, and I am for it, and I think he is to be commended for bringing it to this body.

I assure him that the people at NIH and FDA are doing everything possible in terms of vaccine and chemotherapy. Anything that shows the slightest promise is being evaluated. Those who suffer, those who are dying at this time should know that the resources of this Nation are marshaled in the fight, and the expertise of the Nation, as it emanates from FDA and NIH, it is doing everything humanly possible to bring us to the day when we eliminate this scourge.

Mr. CRANSTON. I thank the Senator from Connecticut for those remarks and for his understanding of this issue. I also thank the Senator from Florida for his support of this amendment.

I urge both Senators to use their positions and their weight to see that NIH does proceed as rapidly as scientifically feasible and practical to test whatever drugs might help to deal with this terrible plague.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 965) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I know of no further amendments on this side of the aisle, and I believe that the managers are soon going to be ready to go to third reading.

If any Senator has an amendment he should be letting the managers know now because we are not going to dilly dally or tarry around going to third reading. Senators have had plenty of opportunities. They have been asked to come to the floor and the managers are here waiting for their amendments.

I yield the floor.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Connecticut.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 953

Mr. WEICKER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business before the Senate is the Weicker amendment.

Mr. WEICKER. Mr. President, to refresh the memory of my colleagues, my amendment deals with the Low-Income Home Energy Assistance Program, a program meant to alleviate the suffering visited upon the poor of this Nation through financial assistance either for their heating bills, if it is heating that is required, or for their cooling bill, when cooling is required.

Now, what brings us to this debate is very simply we have a $600 million reduction that has been imposed on this program. This brings us to a funding level of $1.2 billion as compared to last year's level of $1.8 billion.

The reason I speak for an increase, or rather a restoration of last year's level for the Low-Income Home Energy Assistance Program is because the price of oil has turned around and is going up.

If you stay at last year's level, you are guaranteed of serving fewer people. If you compare the increase in the price of oil and the reduction imposed by the U.S. Senate you can be assured there is going to be much suffering throughout the northern tier of States when winter hits.

The gas prices rose 36 percent in 1986 and yet we are dealing here with a 32-percent reduction in the dollars appropriated to this program.

It is true, last year we nibbled away at this program, but we did so at a time of declining oil prices. That is no longer the case. Instead, the issue before us is whether we are going to have any energy assistance program at all, given the levels being proposed within this particular appropriations bill.

The prediction, I might add, from the Department of Energy is that energy prices will rise an additional 4 to 5 percent in 1987. So, probably by the time 1987 is through, home energy costs may be 40 percent ahead of where we were 2 years ago.

Now, there are a lot of things that make sense in our budget-cutting exercise around here, but there are a few items known as the necessities of life which I would suggest should be available to all Americans. We should not differentiate on the basis of income as to who stays warm this winter.

We have done very well in all sorts of food assistance programs. This achievement stands to the credit of this body and the Nation. However, even today, there is more malnutrition than one would want in this Nation. But, you know, if you are in a position where you are freezing to death, it does not make much difference as to what your sustenance is. The two go hand in hand. Obviously, other items are also involved: the care of the sick, the feeding of those that suffer from malnutrition, shelter for the homeless, and heat for those that live in subzero temperatures.

Now, what brings us to this point? I am not here to go ahead and lay at the doorstep of the Senator from Florida that he wanted to go ahead and chop $600 million off of the Low-Income Energy Assistance Program. That is not what he wanted to do.

The fact is, in determining our priorities, the entire Senate, or at least a majority of it, decided that this is of a considerable lower priority than many other programs.

Here we are with a defense budget of $300 billion and we cannot afford $1.8 billion to assure the people of this Nation that they can get through the next winter. Or, in the case of the summertime, for those that are afflicted with severe heat, they can get through this summer.

Now, what is wrong with this place in determining its priorities? This is not a welfare program. If this money is not available, these people are going to freeze. They are going to get sick and, yes, some are going to die. Is that really what we are seeking here in terms of this allocation situation? In other words, is this really, where our priority should be?

I know the difficult road I have to travel. I was on the floor with an amendment the other day where I tried to go ahead and get the Defense Department to pay their share of the tab when it came to research on illness. I tried to transfer $200 million

from their research budget to the National Institutes of Health so that they would pay their tab to keep our men and women in the armed services healthy.

I got 34 votes.

Here we are today. We have a large population out there that, without this program, is going to be in tough shape. I am told the odds are against getting a budget waiver. However, I am not going to take this floor and say that the money ought to come from some other program within this bill.

Now, there may be those that have a temptation to say, "Well, let's just take a little 1-percent cut across the board." We are already underfunded in our science program. We already are underfunded in our education programs. We already are underfunded in our programs for the retarded and the disabled. We already are underfunded in our health programs. So to anybody that says, "Just an across-the-board cut to pay for this," it will not work. And even there, it will not raise the necessary funds required to restore us to last year's level. I know what is going to happen if I try to take it out of somebody else's budget.

So I postponed the decision on this provision both through the subcommittee and the full committee to let the U.S. Senate decide whether this is a priority. The only way to handle it is to get a budget waiver, not to take it out of somebody else's program. Let us waive the budget. Let us restore the $600 million.

I cannot compromise. I cannot tell you I will take $100 million or $200 million. I am not out here to look good. I am out here to get the money that is necessary. Last year's level was $1.8 billion. If anybody can assure me that oil prices have declined in the past year, then maybe we still can do it for $1.8 billion, or less. But I have already recited the statistics that we are 36 percent ahead in gasoline prices. So you know it is going to impact heating fuel. And the fact is that the level of $1.8 billion is inadequate, never mind the reduction to $1.2 billion.

So I am asking for the money to restore us just to level funding in the Low-income Energy Assistance Program. It is either right or it is wrong. The program is either right or wrong. If it is right, it needs $600 million. The only way that is going to happen is by a budget waiver.

I am sorry that oil prices have gone up. We enjoyed the advantage last year of preparing our appropriations over the declining prices. Now we have got to face up to the changed circumstance. That is what brings us to the floor. Had oil prices continued to decline, there would be no necessity to be on the floor. But they have not; they have gone up. That is what brings this amendment about and that is why I offer an amendment to restore the $600 million. I cannot find an offset.

Congress, in its wisdom, has decided to cut discretionary spending for health, for education, and for science, et cetera. You have cut it way past where it should be. There is nowhere left to cut.

I am not going to throw a bone out there and have all the most disadvantaged elements of our society stage a spectacle fight for the amusement of some of my colleagues and the American people. I am not willing to cut any aspect of education. I have received notification that certain groups now want this money, but they want it as an offset against some other group. I will not be party to that.

The disabled and disadvantaged and retarded are going to receive what they are getting in this appropriation bill, not one penny less. And, indeed, at this level of funding they are getting too little in this very affluent society of ours.

No; those that suffer from cancer and from heart disease and from diabetes and from neurological disorders, those that are mentally ill, mentally retarded, are not going to get one penny less. They already are underfunded. They are not going to be a source of funds for those that are poor and cannot afford to heat their homes.

No; the young people of this Nation that are given opportunity through education are not going to get one penny less, in order to finance low-income energy assistance. We are not going to set the weakest elements of society, one against the other, to divide up the scraps that have been left them by the demands of all other aspects of the budget.

On June 30, 1987, 37 Senators wrote to the chairman of the Labor-HHS Committee requesting that low-income energy assistance be funded at $2.1 billion for fiscal year 1988. These include Senators MOYNIHAN, HEINZ, KENNEDY, BRADLEY, ADAMS, KASTEN, SIMON, SARBANES, LEVIN, PELL, MITCHELL, LAUTENBERG, STAFFORD, DODD, DIXON, BUMPERS, RIEGLE, KERRY, DURENBERGER, GLENN, MIKULSKI, DASCHLE, PRYOR, ROCKEFELLER, DANFORTH, WIRTH, BAUCUS, LEAHY, METZENBAUM, CHAFEE, CONRAD, D'AMATO, GORE, PRESSLER, FORD, SPECTER, and COHEN. That is a lot of Senators to get behind any piece of legislation on the floor; $2.1 billion they wanted for fiscal year 1988.

Since that time, the Senate Appropriations Committee has marked up a Labor-HHS bill that had a 302(b) allocation that was $300 million less in outlays than was included in the Senate budget resolution for health, human services and education programs. The 302(b) allocation is more than $900 million less in outlays than the House Health-Human Services Subcommittee had available when considering their bill for fiscal year 1988. It was impossible under these limitations to fund the Low-Income Energy Assistance Program even at the 1987 level without robbing other vital health, human service and education programs. Surely it is a situation just like this that the Budget Act envisioned when a provision for a budget waiver was included.

For those, I might add in the course of the debate, that say: Well, we can stay at 1.2 and the House is going to be at 1.8, and, therefore, we can come up to the House level in conference—you are not going to be able to avoid this budget waiver vote. You can do it now or you can do it later, but the basic decisions will come to this floor as to whether or not the budget should be waived for this particular sum of money.

I would suggest instead of sitting there wishing and hoping something is going to happen without our involvement, we understand the realities of parliamentary procedure. Either we show our interest or believe me the figure is come down.

I also have heard the argument made that, in the House figure of $1.8 billion they figure through the various funding mechanisms that all that is needed is $1.6 billion.

To my colleagues, we avoided the decisionmaking process in the Appropriation Committee. I was part of that in the subcommittee because I did not have the votes. In the full Appropriations Committee, I again did not take action because I did not have the votes. But now it is in everybody's lap.

I would hope that this body would rise, and say: this is important. This is important. Yes, there is such a thing as winter in the United States and, yes, there is such a thing as poor people in the United States. Yes, oil prices have risen. Yes, if we do not appropriate the same level as last year both illness and death will visit upon those who do not have the means to keep themselves warm.

I mean it is bad enough to walk through Washington, DC, and see human beings lying on grates. I find that an appalling sight in this most affluent of nations and in a very affluent community; affluent in the sense that the purse of the Federal Government is right here.

All that is bad enough. If we could see into every home in America, those of us that are comfortable—my gosh, if you even turn the thermostat down as far as 68, 66 degrees, everybody is sitting there complaining as to how they are freezing. Well, you know what freezing is like? I certainly do not know what it is like in Connecticut compared, let us say, to my friends in Minnesota.

No; there is a real problem here and the mechanism is in place to address it

and the time has come to address it and vote on it.

Mr. President, I ask unanimous consent that Senator PELL, LEAHY, and STAFFORD be included as original cosponsors of the amendment.

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

Mr. WEICKER. Why have we forced ourselves into a position of having to consider cutting funds for the sick, to pay for the poor? Why have we forced ourselves into a position of cutting those programs that provide us with the greatest yield on savings just to meet an outlay target? What happened to considering the merits of the programs and the human needs associated with all the programs included in this bill? What programs would those Senators who sent us the low-income energy assistance requests have us cut to pay for the Low-Income Energy Assistance Program? The National Institutes of Health? There is a small increase in this program above 1987, but not enough of an increase to even pay for the same number of research grants as in 1987.

Do you want to know how bad the problem is? Let me give you two institutes that most people do not talk about: The Institute on Aging and the Child Care Institute.

Everybody goes around saying: I am for the elderly. I am for the elderly. Protect our senior citizens.

We know that the over-85 population is going to double by the year 2000 and the over 65 by the year 2010, and what have we done about it? Nothing. About two or three medical schools in the United States of America have courses in geriatric training for young physicians. That is out of 142. So you are not going to have the personnel.

We have a small amount in this budget to encourage geriatric training for physicians, so we will have an adequate corps of men and women to help this ever-increasingly graying Nation. But the budget for the Institute of the Aging is only a miniscule amount considering the problems ahead.

I know what is going to happen. In the year 2000 when we are confronted with the various ailments and problems of growing old, we will scramble. Oh, there will not be enough money out here then. We will shovel it out by the bucketload.

There are certain things you just cannot catch up on by shoveling the money out. One of them is science and research. That has to be consistent over a long period of time.

What are you going to do? Take some more money out of, the Institute for the Aging, for instance? Take the money out of the Institute for the Aging, but always vote for Social Security and you are all right.

I think it is great to get a Social Security check, but if there is no quality of life, either in terms of your health or in terms of being warm in the wintertime, I suggest to you that the Social Security check is really not affording the level of life that any of us can be proud of in this Nation.

How about the Institute for Children and Child Care?

Child care, child development; that is another institute in the National Institutes of Health. This is a great Nation. You always say, you know, we are supposed to live for our children. What are you going to do, take the money out of the Child Care Institute to pay for low-income energy assistance? Is that what you want?

I have not even gotten into the big killers: heart disease, cancer, the cripplers such as arthritis, diabetes. Never mind all the various afflictions that are the day-to-day job of the National Institutes of Health, some big, some small. Such as for kids with the skin peeling off their faces, epidermolysis bullosa. There are only a few hundred of them in the United States but the work goes on at the National Institutes of Health. Are you going to go ahead and cut that research to fund this program?

Or brittle bone disease? These are only a few hundred out there, but the one institution that cares is the National Institutes of Health.

How about all of you that gave through the muscular dystrophy campaigns and telethons, cystic fibrosis campaigns and telethons?

That is a great volunteer effort, but, believe me, the principal effort is at the National Institutes of Health.

So, all of these budgets, as I said before, are below 1987. Are we going to cut them a little bit more?

Community health centers are frozen at the same level they have been frozen at for years. Maternal and child health services received the first increase in funding it has received in years.

Do you realize how bad our statistics are on infant mortality in this Nation? I might add, two of the five highest cities in the most affluent of cities, Hartford and New Haven, are among the highest in infant mortality. Why? Because of the cutbacks that have occurred. The first time a doctor sees a baby is when that woman is wheeled into the hospital in labor.

For those of us who are not touched in the human sense, let me point this out to you: Just compare the cost of a low birthweight baby to that of a healthy baby. It is not a question that there is not a price to be paid. There is an enormous price to be paid, and I suggest we start paying some of these prices up front to avoid the resultant costs that come later down the line. Never mind the tragedy of this enormously high infant mortality rate among this most affluent, civilized of Nations.

Special education programs are funded below their authorized levels and well below the Federal contribution Congress committed in Public Law 94-142, the landmark legislation that guaranteed a free and appropriate education to all handicapped children.

Do you know what Congress promised when we passed that law? It promised that we, the Federal Government, would take care of 40 percent of the cost. That is what we told all the States who have to do the educating. Forty percent. Do you know what our present level is? It is 8 percent. That law has been on the books now for 11 years and we are at about 7 or 8 percent of the cost. We said it was going to be 40 percent. What do you suggest we do? Take some money from there, a little 1 percent cut and go 1 percent further down?

How about vocational and rehabilitation programs for the disabled?

I could go on and on as to what it is that we have done or have not done relative to these elements of our society, but then I hear the suggestion, "let us have low-income energy assistance and let us go right across the board, let us peel off 1 or 2 percent, whatever is required," instead of saying that the poor of the Nation are as important as all the rest of the people that I have been talking about.

We have gotten a lot of communication over the years as to what it is the Federal Government should or should not do, and there are a lot of people who have done so well by themselves they forget to look behind. I suggest to you that it is good Government that anticipates rather than reacts to crises, especially since we are here with a great bunch of fiscal managers. How in Heaven's name can they be satisfied when they know as a matter of common sense and reading the paper every day as to what is happening in energy prices, with the budgetary exercise that puts this program, insofar as the paperwork is concerned, in a position where it cannot work. It cannot work!

I suppose the other point is, "Do not worry, Senator, we will do this on a supplemental, a little emergency funding. Let us use what we have and then cover it with the supplemental."

That is not good enough, either, in light of what confronts us both as to the people who need the energy assistance and in terms of the oil crisis.

Our job is to be out front of the issue.

I have tried to describe up front how I plan to come at it. The amendment calls for the same funding as last year, and then obviously I have to ask for a budget waiver on which we will have the yeas and nays. That is a pretty difficult task. I need 60 votes. I do not need 51, I need 60 votes for that

budget waiver. But, look, this is not anything to filbuster about. This is something for us to stand up and get counted on in terms of what our national priorities are. I am proud to raise it. I do not have anything up my sleeve.

I know some of the people who are on the same side as I am fighting for, who say, "Senator, you better not go out there, you will get beaten."

I do not know whether I will get beaten or not. Maybe some of the words I have spoken might stir up enough votes to get this through. But I know that all of us who sponsor this amendment know that we are right. I do not have any more maneuvers or tricks up my sleeve. This is it. This is it. This is the point of no return when the entire U.S. Senate gets counted, and if it does not get counted or it goes down in defeat obviously the whole program is in jeopardy.

I am not arguing, as I said before, just for the people of the State of Connecticut, but rather for the States who will be affected.

I want to say one more word. People will say, "Let us use the Exon money from the lawsuit." Those in Connecticut have used their money for low-income energy assistance. We are one of the highest in the Nation using that money not for anything else but low-income energy assistance. But it is not enough to go ahead and do the job for the entire Nation. Therefore, I offer this amendment in the style in which it is presented.

I hope none of my colleagues will press me to the point of having to be for this program but at the expense of the young, of the elderly, the sick, whoever. Let us do it up or down and I will take my chances on the budget waiver. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I rise today to speak in strong support of the Weicker amendment to restore to this bill $585 million for the Low Income Home Energy Assistance Program (LIHEAP). The Appropriations Committee has recommended cutting this amount from the program's fiscal year 1987 funding level. The Weicker amendment would maintain funding that is level with the 1987 appropriation, and with the 1988 House allowance, and would defeat the proposed 32 percent cut.

Before we vote on this amendment, I ask my colleagues to consider several facts about the program and its recipients. Slashing this program today would imperil the social safety net of the truly needy just as cold weather is setting in throughout the northern tier of the country. It is not a move we should consider lightly.

LIHEAP is a needs-based program which assists low-income households in paying for part—by no means all their heating or cooling bills. Nationally, the average income of households which receive LIHEAP assistance is a mere $6,184. The average LIHEAP annual payment covers only about 20 percent of a household's heating and cooling costs.

As you might conclude from such a low average income figure, many LIHEAP recipients—over 30 percent of the 1987 total—are the elderly poor. The remainder of grant recipients include the chronically ill and handicapped; households existing solely on State welfare benefits which do not cover their cost of living; and increasingly, the working poor who take home minimum wages.

Nationally, the average LIHEAP grant per household in 1987 was only $208. For low income households that pay a disproportionate percentage of their total budgets on utility bills—about 15 percent compared to the national average of 4 percent—slashing already inadequate assistance for utility expenses would be a serious economic blow.

If this cut is adopted, it will result in one of the largest percentage reductions for any program serving the poor since 1982. This 32 percent cut, combined with last year's cut, would add up to a total reduction in LIHEAP since 1986 of 43 percent. In human terms, this is a drastic step that we cannot afford to take.

Let me put this proposed reduction of 32 percent in the context of my home State of Vermont, where frequent sub-zero winter weather is the norm. The 1987 appropriation of $10.8 million would shrink to $7.3 million in 1988. This would mean that either approximately 5,760 households would lose their fuel assistance, or that the number of recipient households would remain at 18,000—and each would see a $193 cut in its fuel purchase benefits.

This is an unacceptable situation in a State where a high percentage of the population is elderly; where a very high percentage of the housing was built before 1940; and where home heating fuel costs are higher than the national average and rising.

The Appropriations Committee report would have us accept this cut on the basis that large amounts of oil overcharge funds are available to States to replace the lost LIHEAP money. Let me correct some misconceptions in that respect:

First. Some unspent oil overcharge money will be available to States in 1988, but not enough to cover this cut. The LIHEAP program typically starts operating October 1 and spends out its funds in 6 months. It is already mid-October. Most oil overcharge funds now available to States for 1988 will come too late for many States to meet their own constitutional requirements for fiscal year 1988 appropriations.

Second. Many Governors have taken care of low income households with large short-term increases in State weatherization programs funded with oil overcharge money. This is an appropriate use of overcharge funds—unlike LIHEAP, an income support program which requires consistent annual funding to operate effectively.

Third. In funding programs other than LIHEAP with oil overcharge funds, States are in many cases responding to the legitimate claims of many sectors of their constituencies—as required by the Department of Energy, which is looking for "balance" in State spending plans.

Fourth. Governors won't necessarily be forced to act if this cut is upheld here in the Senate. Last year, 24 States did not replace the cut in LIHEAP at all. Only six contributed substantial funds to the program.

Clearly, the majority of States can't or won't, fully replace the 32-percent LIHEAP cut we are considering here today. Today, I appeal to all of you—including the 36 Senators who joined me in a June 30, 1987, letter to Subcommittee Chairman CHILES in support of level funding for LIHEAP—to consider the human consequences of not supporting the Weicker amendment. I once again urge your support of this amendment—truly needy people should not be forced to pay for the inaction of the Congress, and the States.

Mr. President, I commend the distinguished Senator from Connecticut for his statement. I am one who has looked for budget savings to offset spending increases for vital programs on many appropriations bills, both in the committee and on the floor. But on this amendment, there is not any. I think we have to face up to that. The Senator from Connecticut says he may be beaten on this matter. I will probably stand with him and be beaten with him if that is the case, because I intend to vote with him on this. I hope we will win. Maybe we will and maybe we will not. But I will, with pride, stand beside him on it.

You know, Mr. President, none of us in this Chamber are ever going to be in a situation where we have to worry about whether we can heat our homes or cool our homes, for that matter. We will not have to worry about whether our children or members of our family will ever be cold, will ever have to worry about whether they are going to make it through a cold winter's night. A lot of other Americans are in the same position we are in. They do not have to worry about it. But there are millions who do.

In my own State of Vermont, there are thousands of Vermonters who really do have to worry about this.

We are talking about a grant of fuel assistance that averages only $208 per recipient.

Let me tell you what this means. Two weeks ago, when I was at my home in Vermont, we had a foot of snow. We had a very cold night afterward.

Last weekend, we varied from roughly the temperature of today—say 60 degrees—to a day when we had several more inches of snow. And that is early October. We have had the heat on in our house in September for comfort, but we had it on this month because we would have frozen to death if we had not. Next month heat will be a sure thing.

I recall one week last winter when the temperature never got above 35 all week. Mr. President, that is 35 below zero, not 35 above. This is in one of the continental 48 States.

Unfortunately, what compounds the problems is that of the people energy assistance is most aimed for—the elderly, the disabled—a disproportionate percentage of those people live in homes that are poorly insulated, poorly equipped to face this kind of weather. What we are trying to do through LIHEAP is not only improve the places where they live, but give the kind of energy assistance—the fuel—they need to keep warm in winter.

We are trying to find ways to insulate and to heat. The low income energy assistance programs has been extremely successful. I have gone around my own State and I have seen the work that has been done. I have seen in a number of areas where they have worked on these places, made homes secure from the cold. As a result of these efforts to insulate the homes of low income Vermonters the cost of the program have actually gone down because we have to pay less for heat.

But again these low-income households, unlike average households that spend about 4 percent of their disposable income on utility bills, while the average American family spends around 15 percent. And, we are talking about slashing it even more. In fact, if this cut is adopted, it will result in one of the largest percentage reductions for any program serving the poor since 1982. In fact, if you take this 32-percent trimming and add in last year's, that is a cut of about 43 percent.

Those are numbers, and we can bandy about the numbers, but, Mr. President, I am just wondering how many of us would be willing on one of those 30 below zero nights to go into these homes and say, "Well, we only cut your heat by 16 or 18 or 40 percent," especially in light of some of the cost overruns in programs that can afford high paid lobbyists, "But kept the cuts small enough so you won't freeze immediately. You can hold in there for an extra 2 or 3 hours."

I do not mean to be melodramatic, Mr. President, but as more and more among the disabled, the elderly, the poor, in our country get into the winter months, they are faced with a choice to heat or to eat. Now we are even removing that choice. The Senator from Connecticut is right.

I do not share any illusions that somehow we can come on the floor, appeal to the conscience of everybody and say let us go forward with this money, and suddenly come up with the 60 Senators necessary to cast the votes. I would hope that might happen. I would hope that we would realize in these times we still have a moral duty. But I would hope also that Senators understand what is happening here and understand this is not just numbers, that there are human consequences.

Mr. President, as I said, the Senator from Connecticut may not win on this, but I am proud to stand with him on it. He has done the right thing. He has shown a sense of responsibility to people who we can read about, who we may well know but whose difficulties we will never experience. And because we will never experience them, I hope that we do not prevent us from acting out of a sense of moral responsibility in this case.

I know how difficult it is for anybody on the Appropriations Committee—and maybe I am fortunate after a decade on that committee not to be a chairman of any subcommittee so I do not have to put these budgets together—to try to juggle the budgets with all the different demands that are forthcoming. The distinguished chairman of the subcommittee does a superb job with an enormous amount of heart and caring. I commend him for that.

In fact, it is a lot easier for me as one Senator to stand here and urge this amendment than if I had his responsibility as chairman. But I do feel so strongly about this, and because I know how much it involves the people of my own State and the people of my whole region as well as other parts of the Nation, I felt constrained on this issue to strongly support the Senator from Connecticut.

I yield the floor.

Mr. METZENBAUM. Mr. President, I too am very concerned about the proposed cut in LIHEAP funding for fiscal year 1988.

This important program helps millions of low-income families across the Nation to pay their utility bills.

With winter fast approaching, I believe that it would show a total lack of compassion for Congress to further cut the Low-Income Energy Assistance Program.

If we accept these cuts, we are turning our backs on this Nation's historical commitment to helping the poor and elderly afford a decent standard of living. That should certainly include heat for their homes.

Mr. President, funds for this program have steadily decreased, while inflation has driven home heating costs sky high.

Over the last 5 years, LIHEAP appropriations have decreased by 2 percent, while heating and cooling costs have risen by about 25 percent.

We face some tough choices in these times of budgetary restraint. But it makes no economic sense to cut this important program by one-third of last year's level.

Reduced heating assistance would most certainly lead to greater health care costs for the poor and elderly, and send more people out of their homes and into homeless shelters.

We pay the costs for these services.

With homelessness already on the rise in this country, we cannot afford this cut.

With increasing numbers of children and elderly living in poverty, we cannot afford this cut.

The LIHEAP program has been very successful in Ohio. But this proposed cut would reduce Ohio's allocation by almost $30 million from last year's level. This is unacceptable.

I urge my colleagues to support this amendment.

Mr. RIEGLE. Mr. President, I rise today in support of the Low Income Home Energy Assistance Program [LIHEAP].

The amendment I am supporting today would raise the Senate appropriation to that of the House level—$1.823. This amount is vital for the survival of the 6.8 million American households which depend on LIHEAP. Even at this level, LIHEAP funds reach only 34 percent of federally eligible households.

This program is critically important to all low-income Americans. In 1986, 287,000 Michigan households received this energy assistance. The Senate Committee on Appropriations has reduced the level of funding for LIHEAP to $1.237 billion, lower than the fiscal year 1980 level of $1.6 billion. This cut would mean the loss of this assistance for more than 100,000 Michigan households. The State of Michigan would lose a total of $32.2 million in LIHEAP funding for fiscal year 1988.

While funding for LIHEAP has decreased in recent years, energy costs have increased by at least 20 percent and are expected to rise another 5 percent for 1988.

This program provides meaningful assistance for many low-income Americans. As energy prices increase, the need for full LIHEAP appropriations becomes more important to these households, 39 percent of which include an elderly person. We have a re-

sponsibility to maintain this vital support.

Mr. KENNEDY. Mr. President, if we allow the current Senate appropriations numbers for the Low Income Home Energy Assistance Program to be enacted into law we will be condemning millions of Americans to having to choose between heat and food. Seven million households—about 21 million people—in this country receive home energy assistance. This assistance often means that a family can afford to both feed their children and heat their homes. Without this assistance they will have to make some impossible choices. Can we really ask our constituents to make this kind of choice?

If States choose to reduce participation in response to these cuts, then 2.3 million households will go without assistance. What is more likely, however, is that average household benefits will decrease by 32 percent. In my own State, this decrease in funding currently suggested in the Senate Appropriations bill will mean that almost 150,000 households will be colder and perhaps hungrier this winter.

These benefit decreases will have tragic effects. Most LIHEAP recipients currently spend 16 percent of their annual income on energy—the average citizen pays 4 percent. If these cuts are enacted then LIHEAP households will be forced to spend 21.5 percent of their income on energy. This amount would leave precious little for health care, clothing, food and shelter. It is not inconceivable that some households will become homeless when faced with this type of benefit cut.

I also want to ask the Senate to join me in a bipartisan effort to pay tribute to a great woman, Sister Pat Kelley, a sister in the Order of Sisters of the Incarnate Word. Sister Pat has provided friendship to the lonely, shelter to the homeless, and nourishment to the hungry. She worked tirelessly to help all those who could not help themselves and provided care to those who had none. On Sunday, September 27, Sister Pat was murdered in St. Louis, MO.

Sister Pat spent the last 6 months of her life working to insure that the Low Income Home Energy Assistance Program would receive full funding this year. She understood the desperate need for this program and the disastrous effects that any cut in funding could have on people in poverty. As a memorial to this inspirational woman, I ask my colleagues to vote yes on the Weicker amendment to restore the LIHEAP Program to its current services level of $1.8 billion. I can think of no better tribute to her determination, no better monument to her life.

Mr. D'AMATO. Mr. President, I rise today in support of the amendment by Senator WEICKER to restore funding for the Low Income Home Energy Assistance Program [LIHEAP]. The fiscal year 1988 Labor-HHS appropriations bill cuts funding for this program by 30 percent—from $1.822 billion in fiscal year 1987 to $1.237 billion for fiscal year 1988.

This program assists 6.8 million households, and, according to a study prepared for the National Association for State Community Services Programs, 39 percent of these households contain an elderly person, 14 percent contain a handicapped person, and LIHEAP households had an average income of $7,373 in 1984—$847 below the official poverty line.

In New York, LIHEAP provides benefits to approximately 1 million households each winter, averaging $243 per household. The reduction in the funding for this program which the bill currently proposes would have a devastating impact on these households.

The proposed 30 percent cut would mean a $73 million loss to New York. And since these dollars are directly provided to low-income households so that they can pay their fuel bills during the heating season, they would feel an immediate and direct impact.

If we cut this program, it means one of two things. Either we reduce the number of households served or we reduce the size of the benefits. In New York State, the practical result would be either a 30 percent across-the-board cut in benefits or the elimination of benefits to about 107,000 households, many of whom contain elderly recipients.

Mr. President, with energy prices on the rise, we simply cannot subject our Nation's poor, elderly, and handicapped to this type of cut. LIHEAP households already spend 14-15 percent of their incomes on energy costs, nearly four times the national average. We cannot stand here today and make an already difficult situation worse. I urge my colleagues to support Senator WEICKER's amendment.

Mr. MELCHER. Mr. President, I rise in support of the amendment offered by the Senator from Connecticut to restore funding for the Low-Income Home Energy Assistance Program.

As chairman of the Senate Special Committee on Aging, I am particularly concerned about the effect of this $585 million cut on the 2.7 million elderly households which depend on this assistance for help in paying their heating and cooling bills. If we don't restore this funding, it would result in a 43-percent reduction since 1986. This means that either households will lose an average of over $90, which is almost half of the average annual assistance they get now, or millions of households will be totally without help for their energy expenses.

Low-income elderly in Northern States are particularly susceptible to suffer from hypothermia because their homes are less likely to be insulated and weatherized. And in Southern States, elderly poor are less apt to have air-conditioning which increases their chances of having heat stroke. As 38 percent of all households that receive energy assistance contain an elderly member, the results could be devastating.

If my fellow Members are sincerely concerned about the plight of the needy elderly in their States, I urge their full support for restoration of these cuts.

Mr. President, I ask to be inserted in the RECORD the text of a letter which I sent to other members of the Aging Committee and a letter, signed by 12 members of the Senate Special Committee on Aging, which was sent to Senator STENNIS, Appropriations Committee chairman, and Senator HATFIELD, ranking minority member of the Appropriations Committee with copies to all other members of the Senate Appropriations Committee.

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

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC, October 13, 1987.

As a fellow member of the Senate Special Committee on Aging, I am writing to urge your full support for efforts to restore almost $600 million for the Low Income Home Energy Assistance Program (LIHEAP) in the Labor, Health and Human Service, and Education Appropriations bill.

Thirty-eight percent of the households now receiving energy assistance involve one or more elderly in that household. We must protect the low income elderly of northern climates so they can have adequate heat in the cold of winter and in southern climates, relief from summer heat. Older Americans are particularly vulnerable to hpyothermia in cold climates and heat stroke in warm climates and both could increase significantly if energy assistance were not available.

In hearings before our Committee this year, we have heard from low income senior citizens who do not have the money to pay for the medications they need so badly. They and millions of others are struggling to pay for their other health care needs as well as food and housing. To cut back energy assistance to the nearly 2.7 million elderly households who depend on it for help in paying heating and cooling bills would be a severe blow.

Even at the current 1987 level, LIHEAP is inadequate. Only 30 percent of persons eligible for the program actually receive benefits. These households are truly "low income" with an average income of $6,134 in 1985 and, even with energy assistance, they have to spend almost 15 percent of their merger income on energy costs.

We must maintain our commitment to our nation's elderly. Again, I urge your full and active support for restoration of these severe cuts to the LIHEAP program so badly needed by low-income senior citizens.

Best regards,

Sincerely,

JOHN MELCHER,
Chairman.

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC, September 22, 1987.

Hon. JOHN C. STENNIS,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR JOHN: As the Appropriations Committee meets to decide fiscal year 1988 spending levels for the Departments of Labor, Health and Human Services and Education, we want to express our concern that programs for the elderly be funded to maintain at least current service levels.

We are also particularly concerned about the Low Income Home Energy Assistance Program (LIHEAP) and urge restoration of subcommittee cuts to the full funding level of $2.132 billion. Elderly persons live in 38 percent of the households which receive energy assistance and they would be severely impacted by any funding reductions. The elderly in northern climates must have adequate heat in the cold of winter and in southern climates, relief from summer heat. Heat stroke and hypothermia can be a serious threat to our vulnerable elderly population.

Many members of low income elderly households are now finding it impossible to meet the basic needs of existence—food, housing and health care. To slash the already inadequate assistance they may get for their utility expenses would be a severe blow.

Funding for LIHEAP has decreased in recent years with the fiscal year 1987 appropriation of $1.823 billion being 2 percent lower than the 1981 appropriation, yet the same heating and cooling costs for this period have increased by at least 20 percent and another 5 percent escalation is predicted for 1988. Furthermore, only about 29 percent of eligible households actually receive any assistance which averages only $213 for an entire year. Surveys indicate that amount covers about 25 percent of a low-income household's total energy costs. These households then still have to spend almost 15 percent of their meager income to pay heating and cooling bills.

Congress must maintain its commitment to the LIHEAP program which is so critically needed by our nation's low income elderly. We urge appropriation of the full amount authorized, $2.132 billion.

Best regards,

Sincerely,

John Melcher, chairman; John Heinz, ranking member; John Glenn; David Pryor; Bill Bradley; Quentin Burdick; William Cohen; Larry Pressler; John Chafee; Dave Durenberger; John Breaux; and Richard Shelby.

Mr. HEINZ. Mr. President, the Low Income Home Energy Assistance Program [LIHEAP] is critically important to some 6.5 million poor households across the country. And yet we are in the difficult position of having to vote for a budget waiver to prevent program funds from being cut by $585 million, or nearly 33 percent.

This dilemma arises for several reasons. First, the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies [Labor/HHS] received a 302(b) allocation of $930 million less in budget outlays than its House counterpart. So, although, the Senate budget resolution assumes current services for LIHEAP—$1.823 billion—and the House appropriated that amount, the Senate Labor/HHS Appropriations Subcommittee was forced to consider deep spending cuts in all of the discretionary programs under its jurisdiction. LIHEAP, because of its high "spend-out" rate—91 percent—was targeted and hit.

Certainly, the 302(b) problem is partly responsible for our dilemma. But I would suggest our dilemma points to a larger, far more serious matter. The hard truth is that we in Congress are deluding ourselves if we think we can meet Gramm-Rudman targets—much less balance the budget—with further reductions in discretionary nondefense spending. As Peter G. Peterson points out in an important article entitled "The Morning After," published in the current issue of the Atlantic Monthly, we could eliminate all discretionary nondefense spending and still run a sizable budget deficit. Over the past few years, we have cut discretionary nondefense spending to 4.09 percent of GNP—its lowest level since 1961.

And so we have a Hobson's choice: we can vote for a budget waiver and be labeled "fiscally irresponsible" by our opponents. Or we can vote for the largest single reduction made in any low-income program in the last 6 fiscal years. A vote not to waive the Budget Act is a vote to cut LIHEAP not to the bone, but through the bone. Make no mistake: it's a vote to eviscerate the program; to turn off the lights, heat, and—I make this point to my Southern colleagues—air-conditioners of millions of poor households.

Diane DeVaul of the Northeast-Midwest Institute has authored a report entitled "Narrowing the Gap: The Energy Needs of the Poor and Federal Funding." She points out that in 1984, the last year for which exact figures are available, a gap of $3.6 billion existed between the energy costs of LIHEAP-eligible households and the amount actually made available. Estimates based on the U.S. Department of Health and Human Services data for fiscal year 1986 indicate that LIHEAP funds covered just 9.4 percent of the energy costs—for lights, hot water, cooking, and the like—of federally eligible poor households. LIHEAP defrayed under 20 percent of their basic heating and cooling costs.

Allow me to point out that LIHEAP is not some big, out-of-control Federal program. In 1985, Congress appropriated $2.1 billion for LIHEAP. In fiscal year 1986, the appropriation was reduced to $2.009 billion as a result of the 4.3 percent across-the-board cut mandated under Gramm-Rudman. Last year, Congress further reduced funding for the program, to $1.823 billion—an amount some $25 million less than the fiscal year 1981 appropriation. Addressing last year's funding reduction, House and Senate conferees to the Labor/HHS bill make clear that:

> . . . the amount agreed to for LIHEAP should not be construed as a decline either in support for the program or in the need for such assistance. Rather, it is reflective of the unusual circumstances which exist this year: lower energy prices in general and the availability of substantial oil overcharge funds to the states. (House Report 99-960, page 20)

Conditions of lower energy prices and the widespread availability of oil overcharge funds no longer prevail. Most of the oil overcharge funds were allocated to the States last year; additional allocations are likely to be inconsequential and spread over several years—I might add that a Federal court ruled that such funds were to be used to supplement, not supplant, energy assistance programs; the funds were not targeted specifically to the poor. More importantly, residential energy prices are on the rebound, with the cost of fuel oil, natural gas, and electricity all expected to increase this year and next.

Mr. President, a June 1986 study prepared for the National Association for State Community Services Program (NASCP study) demonstrated the persistent needs of LIHEAP recipients:

LIHEAP households had an average income of $7,373 in 1984—$847 below the official poverty line for a family of three.

LIHEAP provides modest but meaningful assistance to 6.8 million households, 39 percent of which contain an elderly person.

Fourteen percent of LIHEAP households contain a handicapped person.

LIHEAP households spend 14 to 15 percent of their income on energy costs—and some 40 percent of these costs are for basic heating and cooling—nearly four times the national average. In 1984, these costs totaled $942; the average LIHEAP benefit was $213.

LIHEAP funds reach only 34 percent of all federally eligible households.

Information I obtained today from the U.S. Department of Health and Human Services indicates that 52 percent of all LIHEAP-eligible families contain children under the age of 18.

So, Mr. President, as I mentioned earlier, we face a Hobson's choice. I urge my colleagues to support this amendment which maintains funding for this critically important program.

Mr. PELL. Mr. President, I am very pleased to join with my distinguished colleague, the senior Senator from Connecticut [Mr. WEICKER] in this bipartisan effort to restore funding for the Low Income Home Energy Assistance Program [LIHEAP] to the fiscal year 1987 funding level.

As presently reported to the Senate, appropriations in H.R. 3058, for low-income energy assistance total $1.237

billion—almost $585 million below LIHEAP allocations in fiscal year 1987 of $1.822 billion. Should this level of LIHEAP funding remain in the Senate bill, it is estimated by the Northeast-Midwest Institute that more than 2 million low-income and elderly households across the Nation could lose energy assistance during the critical winter heating season.

Specifically, in my State of Rhode Island, such draconian cuts in energy assistance programs would result in a loss of more than $4 million in funding this winter season with almost 9,200 households losing heating assistance at a most critical time.

Mr. President, I fully understand the difficulties faced by my distinguished colleagues on the Senate Subcommittee on Labor, Health and Human Services, Education and Related Agencies as they struggle to meet their funding targets for the fiscal year 1988 budget. I also recognize their deep commitment over the years in funding the critical energy needs of the elderly and low-income families through the Low Income Home Energy Assistance Program.

I am, however, deeply troubled by the deep cuts recommended in H.R. 3058 for fiscal year 1988. I also do not believe it fair to assume, as the administration has done in the past, that a major portion of oil overcharge funds will be channeled entirely to the Low Income Home Energy Assistance Program. These funds awarded to States from legal challenges, are based upon oil overcharges for statewide consumption of various fuels, not merely the overcharging of fuel oil to certain customers.

Mr. President, I am very keenly aware of the difficult choices faced by the members of the Senate Appropriations Committee. There are indeed many more promising and important programs than there are Federal dollars to fund them. The funding for the LIHEAP Program in fiscal year 1988, however is inadequate and a reversal of our commitment to provide for the basic human needs of our elderly and low-income families across the country. I strongly urge the Senate to support the effort by my distinguished colleague, Senator WEICKER to restore adequate funding for the LIHEAP program to meet the urgent needs of many families this winter.

Mr. STAFFORD. Mr. President, the Low Income Home Energy Assistance Program [LIHEAP] served 7 million households in fiscal year 1986 with an average benefit of $208, down $15 from fiscal year 1985. This means about 40 percent of the 17.6 million households eligible under the State-established standards received benefits equivalent to 23 percent of their residential energy expenditures.

Despite rumors to the contrary, most households have not benefited from the drop in world oil prices. While the 16 percent of low-income households using heating oil did get some small price break—albeit many months after the refineries and terminals benefited—the other 84 percent have not experienced any price drop. Indeed, indications are that electricity prices will continue to increase and that gas prices, once expected by DOE to stay level, may now rise higher than administration predictions as price controlled "old gas" disappears.

The poor continue to spend about 14 percent of their incomes on residential energy—more than twice as much as the average American household and a far higher proportion than they did 10 years ago. In fact, census figures recently distributed by the National Association for State Community Services Programs show that the average three-person LIHEAP household, after paying for food, housing, and energy, has $355 left per year for all other expenditures.

The LIHEAP Program represents a partial response to the very serious problem energy continues to pose for the poor.

The birth of energy assistance funding over a decade ago, was a direct result of Congress' view that it is intolerable if any American should face illness or death by virtue of hyperthermia or hypothermia. I would hope that my colleagues would continue this program at the adequate level of Senator WEICKER's amendment.

Mr. COHEN. Mr. President, I am very disturbed by the action of the Senate Appropriations Committee to cut the Low-Income Energy Assistance Program by 30 percent. I support Senator WEICKER's amendment to restore funding for this crucial program and I urge my colleagues to join our efforts to maintain the energy assistance which keeps many elderly and disadvantaged families with heat and electricity during our coldest and hottest months.

The funding reduction included in the Labor-HHS bill will have a devastating effect in Maine, where 30,000 households currently depend on the LIHEAP Program for help. Maine will lose $8 million from current levels, which will force the State to cut 19,000 households from the assistance rolls or reduce assistance to all 30,000. In Maine, the State will choose the latter rather than turn elderly citizens out into the snowy cold, but it means that, rather than receiving a payment of $400 for the winter, the poor and elderly will only get $150.

That amount will scarcely help out for 1 month's energy payments, let alone an entire winter. In Maine, our winter has already begun—we had temperatures in the teens over this past weekend—and it lasts until April in some years. What will $150 mean over a 7-month period?

In 1980, LIHEAP payments covered 40 percent of a household's energy payments. The fiscal year 1987 level of LIHEAP funding contributed to only 20 percent of energy costs. The Appropriations Committee action will reduce that amount to a pitiful 11 percent.

The committee states that its bill attempts to address some of the problems of the elderly—anxiety, illnesses, and financial hardship. The LIHEAP Program serves 6.8 million households, of which 40 percent include at least one elderly individual. In this context, I do not see how a 30-percent cut in the energy assistance payments helps address the problems of the elderly.

I believe the committee's action is a serious mistake that we should strive to correct, and I urge my fellow Senators to consider the seriousness of this funding reduction and join the effort to restore funding to the program.

Mr. LEVIN. Mr. President, I will vote to waive the Budget Act so that we can consider the Weicker amendment, which would provide funding at last year's level for low-income energy assistance. Adequate funding for this program is essential if we are to prevent the quality of life of low-income individuals from deteriorating. This amendment is important for low-income individuals nationwide, but it is particularly important for the low-income individuals in States like Michigan.

I recognize the need to reduce the budget deficit. It is a threat to our long-term economic health. I also recognize that the Weicker amendment would put this appropriation bill over budget, which is why we are considering a motion to waive the Budget Act. However, waiving the Budget Act on this particular amendment does not necessarily require an increase in the overall deficit. There are other appropriations bills to consider and there is still a revenue-raising measure to consider. When considering these measures we can adopt offsets for the additional funding which the Weicker amendment calls for and still stay within the overall budget ceiling.

Mr. BINGAMAN. Mr. President, I rise today in support of the amendment by my distinguished colleague from New Hampshire, Senator RUDMAN to restore funding to fiscal year 1987 for the Low-Income Home Energy Assistance Program [LIHEAP]. This program has helped provide vital heating and cooling assistance to nearly 7 million households in the United States. Elderly persons live in 38 percent of the households which receive energy assistance and they would be severely affected by any funding reductions. Many members of low-income elderly households are now finding it impossible to meet the basic needs of existence—food, hous-

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ing, and health care. Further cuts would only worsen their situation.

Funding for LIHEAP has decreased since 1981, yet heating and cooling costs for this same period have increased by at least 20 percent and another 5 percent escalation is predicted for 1988.

The impact of the proposed cuts will be felt in my home State of New Mexico. The State stands to lose over $3 million in funding which will mean that approximately 16,000 households will lose heating assistance.

Already, only 29 percent of the eligible population is able to receive LIHEAP assistance, estimated to cover almost 25 percent of the total household energy costs. Energy costs are a very real problem for our poor who still spend over 15 percent of their annual income on fuel bills. Until 1987, LIHEAP paid just under 25 percent of these costs. Each 10 percent cut in program benefits costs each participant household an extra 0.5 percent of total household income.

I urge my colleagues to restore funding to this important program. We must not turn our backs on the poor and elderly of this country who deserve our support.

Mr. SARBANES. Mr. President, I am pleased to support the amendment offered by the Senator from Connecticut [Mr. WEICKER] to restore funds to the Low-Income Home Energy Assistance Program [LIHEAP]. The $585 million provided by this amendment will allow this program to continue at last year's level of $1.822 billion.

Congress authorized the Low-Income Home Energy Assistance Program at a time of unprecedented energy costs in order to help low-income individuals maintain an adequate level of heat in their homes to ensure their health and safety. In my view the times have not changed to warrant a reduction in this assistance. If this winter is as cold as last, there will be just as many households depending on assistance from LIHEAP to pay home energy costs during the coldest months of winter. In addition, after paying these expenses, the households depending on LIHEAP will have fewer dollars left to pay remaining expenses. Last year alone, in my own State of Maryland, 93,887 households received assistance with heating bills from the Low-Income Home Energy Assistance Program.

A recent Washington Post article discusses the extent to which the households in the Washington Metropolitan area who depend on this program will be effected by the proposed funding reduction. According to the article, official estimates show that the number of households receiving a one-time energy assistance payment could be reduced by 29,000 in Maryland, 13,000 in the District, and 37,000 in Virginia if funding for this program is decreased. In light of these estimates I find it quite disturbing that the Low-Income Energy Assistance Program may suffer such severe reductions.

All Americans are adversely affected by the higher costs of heating oil, but I am quite concerned that the impact is felt greatest by lower income citizens and elderly persons living on fixed inomes. If we don't continue to maintain adequate funding for this program, Mr. President, I am afraid that many households which rely on the LIHEAP Program may not be able to meet their energy expenses and consequently will go without heat. This program is effective and over the years has helped many families in need with energy bills. Senator WEICKER's amendment will provide adequate funding for the Low-Income Home Energy Assistance Program and I urge the Senate to approve it.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I thank the Chair. I will be brief.

I am going to vote against the proposal offered by the Senator from Connecticut. It will be the first time since I have been in the Senate that I will have voted against any amount of funding for low-income energy assistance. As a matter of fact, coincidentally, the Senator from Vermont, the Senator from Connecticut, and the Senator from New Hampshire on a number of occasions have in fact worked together to protect this and other programs. But we are now at a very interesting juncture. This debate shows in clear relief how we arrived to face this discussion about budget deficits.

I cannot disagree with anything—and I watched the remarks in my office—the Senator from Connecticut or the Senator from Vermont said concerning the need for funding. But the fact is that what we are talking about—let us put this in language the American people can understand—is a budget waiver for about $585 million. Let me put it differently. We are, if this becomes law, issuing an instruction to the Secretary of the Treasury to borrow another $585 million. Maybe he should. And that is what this body will decide. Maybe 60 people feel this is so critical that as matter of fact we ought to borrow that money. But the way we got to $2 trillion plus in debt is just exactly this way. I have done some of it myself. We are all guilty of it. We have essentially voted for needs of the country because it is easy to vote for needs. It is not so easy to vote for the revenue to pay for those needs. This could not happen in my State. I doubt it could happen in the State of Connecticut or probably in the State in which the Presiding Officer was once the Governor not so long ago. In those States you have to raise the necessary revenue because there cannot be an imbalance in your budget. If you want to spend it, you have to raise it. But we have found the magic of all politics here in the Congress. We spend it and nobody pays for it except, of course, this year we will spend almost $150 billion for interest, the third largest item in the Federal budget, and most economists say if we continue to spend this way, we are eventually going to destroy this economy.

Nobody has fought harder for low-income energy assistance than this Senator, and it pains me to vote against this budget waiver. I guarantee a lot of people in my State are going to be very unhappy with this vote, but I am going to have to tell them that when it comes to raising spending without raising the revenue for it, I will not vote for it anymore. Whether it be for low-income energy assistance or defense or whatever, I am finished voting for items if we are not going to pay for them. It is that simple. I made that decision back in 1985.

Now, I may offer my own amendment, depending on how this one is disposed of. If this one passes, that is the end of it. But for Members who are watching, let me make a couple of observations.

I am going to offer an amendment to cut discretionary programs in the Labor-HHS appropriations across the board by 1.94 percent in order to raise another $400 million as opposed to the nearly $600 million that the Senator from Connecticut has proposed. But let me point out that after that cut takes place, if my amendment were successful, it is not all that bad.

For instance, AIDS funding would be increased from $478 million to $928 million, after the cut I propose. That would be a 94-percent increase. Probably not enough; it is a terrible problem as was discussed this morning, but it is still a pretty good increase compared to a 32-percent cut for low income energy assistance.

NIH funding—and I am a strong supporter of NIH—would be up $553 million, after my 1.9 percent across-the-board cut.

Total funding for the Department of Education would be increased $1.38 billion, a 7-percent increase; chapter I education would still receive an 11-percent increase. What I am saying is that the across-the-board cut that I would propose would still leave increases in place for many programs. I guess that is a long way of saying that I am not completely happy with the way that the subcommittee finally allocated the money that was given to it. But we voted on it. And the subcommittee chairman had the votes. That is what this place is all about. And here we are.

I will make an observation. I am sure that I will get the ire of several Senators by saying it, but when we were granted additional allocations by the Budget Committee, I think my figure is correct, about $500 million, it was directed to HUD to allow for a space station and we still cut low-income assistance by the amount we did. It occurred to me that we care more about exploring space than freezing senior citizens. That is what priorities are reflected in our appropriations bills.

So I am going to vote against the waiver, I am going to say to the Senator from Connecticut that I do it with some reluctance and sadness. The fact of the matter is I am not going to vote for anything that mandates the Secretary of the Treasury to go out in the financial markets and borrow another $600 million or in some other program $200 million. That is precisely, Mr. President, where we are. It is time to pay as you go even if it means voting against low-income energy assistance by a Senator from New Hampshire.

I thank the Chair.

Mr. CHILES. Mr. President, I will try to be brief. We have been on this amendment 50 minutes now. I think we have had a long discussion. This amendment will add $585 million in spending authority and $532 million in outlays to our bill. That puts our bill substantially over our budget allocation and makes it subject to a point of order. As the Senator from Connecticut has well pointed out throughout the committee process, we have attempted to meet the many priorities that have been expressed to us. I believe basically we have done that. I wish we could have done more on the Energy Assistance Program. This is the one program, however, that I believe has an option that the other programs do not have.

Since 1988 the States have received $3.3 billion from oil overcharge settlements. That is money that can be used for low-income home energy assistance. It has been argued that the States have already spent that overcharge money. Yet as of August 28 States have submitted plans covering only $681 million. It appears that $1.4 billion is still unspent of the 1986 Exxon settlement alone, and a total of more than $2 billion is unspent overall. The administration estimates that the States will receive more than $1 billion in additional oil overcharge funds by 1988. Mr. President, that is $1 billion more that will be coming to the States. Even though the funds from these settlements were not intended to replace Federal appropriations, severe fiscal restraints make it reasonable to expect States to temporarily help share the cost of low-income home energy assistance programs.

This program was started in the late seventies at $200 million as an emergency response to the skyrocketing energy price shocks. It was not originally intended to be a permanent program. The basic welfare assistance grants include resources to compensate for home energy costs. Each year the States themselves divert more than $100 million from the low-income home energy appropriations for other purposes such as health block grants, and while this is allowed by law, it does indicate that the States view other needs in many instances as a higher priority than low-income energy assistance. All States do not do that. The Senator from Connecticut pointed out that his State is using all the funds available for home energy assistance. But this does not happen in many other States.

If this amendment is adopted, then the Senator from New Hampshire said he is going to offer an amendment. I will have to look at his. But I knew I was going to be forced as chairman of the subcommittee to require an across the board 2.8 percent cut to provide this kind of money because at least the Senate should have an opportunity to vote to keep this bill within its allocation. I have to see they have an opportunity just as the Senator from Connecticut has to see that they have an opportunity to vote on the budget waiver. I am going to try to do my job as the subcommittee chairman to see that we stay within our allocation. I fought along with the Senator from Connecticut in the Appropriations Committee for a higher allocation for our subcommittee. Originally under one plan we were going to be cut $1.5 billion in outlays. We had a series of about 14 votes. Finally, we ended up where we were cut $300 million in outlays. That is money that of course we had to look at and determine where it would come from.

But that is part of the problem that we have when we are not willing to pay for the money that we are borrowing. We have to try to find places that we can squeeze. We have to hold these bills down. Certainly, as chairman of the Budget Committee, I am not going to have my subcommittee bill waive the Budget Act and go out of here over my allocation if I can do anything about it.

So I will just put the Senate on notice. We will have an amendment if the waiver goes through. We will have an amendment to cut across the board and maybe that is the way it should be done. We had to try to prioritize. That is what we tried to do. I tried to look at the fact that there was some of this oil overcharge money out there for other things. And an across-the-board cut I hate to do. It will essentially reverse and undo many of the program enhancements that we have so far accomplished. It will not permit us to fully fund the authorized level of important programs that I care about and the Senate cares about like maternal child health, immunization programs, developmental disabilities, Head Start, drug-free schools, and community and migrant health centers. Those were all that we tried to fully fund or fund up to the authorized level.

(Mr. DASCHLE assumed the chair.)

It is going to result in a cut in biomedical research. It is going to eliminate some project grants. I do not like to see that happen. Everybody hates to see that happen. The budget resolution called for an increase in the Department of Education. That was something for which we had even some amendment on the floor. We met that mark. But if we have this 2.8 percent cut, it is going to eliminate close to one-third of that increase.

About $125 million will be cut from chapter I educational services for disadvantaged youth. That is going to eliminate 165,000 low-income students from the program. I guess the point I am trying to make to the Senate is there is no free way of doing this. That is the dilemma that brought us here to this amendment. We had to face in the committee how we were going to provide funds that many, many Members want and the Senator from Florida would like to see for the home energy program because it also covers some benefits for heat. If we think cold is bad, and it is terrible, we have more people in this country dying from the heat than we had from cold. We had those terrible things happen in my State too.

I guess what it boils down to is the need to get our fiscal house in order. Then we can sort of set priorities. Right now we are staving off the fire sale all the time because we know we keep borrowing this money. We keep adding to the debt. That adds to the interest rate. Who gets hurt by the interest rates that are high? Those are the same people we are talking about trying to help with this program. They are the ones who have the tough time trying to pay those bills.

It makes me realize more that those things that we require as being absolutely necessary we ought to require we fund and we pay for, and that we do not just keep borrowing money for it. But that is the place we find ourselves. The bill provides about level funding for impact aid. That 2.8 percent cut is going to impose some real cuts in impact aid, especially to those districts that have seen their payments decline in recent years.

Well, where do we come down on balance? It was our view that the needs of the low-income home energy assistance program could be met by the States that have this $3 billion in oil overcharge funds. We feel that the Governors of our States and the elected officials of our States should be ap-

plying those funds to the needs of low-income energy assistance.

I do not want to offer the 2.8 percent across-the-board cut to the bill, but I really have no alternative but to do that if the Weicker amendment is agreed to.

Then, maybe the Senate will not vote for that. If the Senate decides, in its wisdom, not to, then we will do as the Senator from New Hampshire said—the Secretary of the Treasury will borrow that much additional money, and we will crank up the deficit that much more. But the Senate will have to make those decisions: first, on the waiver, and then on an amendment as to whether to cut across the board.

Maybe we have set the priorities wrong, I say to the Senator from New Hampshire. We do not have the wisdom of Solomon in that. We were put in that position, how we were going to divide the baby, so to speak, and we set it one way.

Mr. WEICKER. Mr. President, will the Senator yield for a question?

Mr. CHILES. I yield.

Mr. WEICKER. Would not the Senator agree that I have the unusual burden on me of getting 60 votes, not a simple majority? Again, the Budget Act contemplates that I should have that burden. If I meet that burden, why would this entail an offset? That is not in the cards, unless the Senator wants it in the cards.

Mr. CHILES. If the Senator gets 60 votes, he needs only 51 votes to defeat the Senator from Florida if he makes his across-the-board cuts.

The Senator feels duty bound—and I appreciate his feeling—that this is an amendment that has to be offered and voted on, and the Senate has to face up to it. I hope he will appreciate that the Senator from Florida also feels duty-bound to have the amendment out of the subcommittee, which he chairs, comply with its 302 feature. That, again, is part of this Budget Act.

I cannot think of anything that would be more hypocritical to do than if I come here and preach budget to everyone and allow the budget to be waived in my committee without attempting to do something about it.

The Senate will make that decision. I know how I will vote, but I do not know how any other Senator will vote. There might be a 60 vote on the waiver, and that is their view, and they do not care about anything else.

Mr. President, I raise the 302(f) point of order against the Weicker amendment.

Mr. WEICKER. Mr. President, I move to waive section 302(f) of the Budget Act, pursuant to section 904 of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there debate on the motion? If not, the question is on agreeing to the motion to waive. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON], are necessarily absent.

Mr. SIMPSON. I further announce that the Senator from Kansas [Mrs. KASSEBAUM], is absent due to a death in the family.

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

The result was announced—yeas 47, nays 50, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—47

Adams	Hatch	Mitchell
Biden	Hatfield	Moynihan
Bradley	Heinz	Pell
Burdick	Inouye	Pressler
Byrd	Karnes	Riegle
Chafee	Kennedy	Rockefeller
Cohen	Kerry	Roth
Conrad	Lautenberg	Sanford
Cranston	Leahy	Sarbanes
D'Amato	Levin	Sasser
Dodd	Lugar	Specter
Durenberger	Matsunaga	Stafford
Fowler	McCain	Stevens
Glenn	Melcher	Weicker
Grassley	Metzenbaum	Wilson
Harkin	Mikulski	

NAYS—50

Armstrong	Evans	Nunn
Baucus	Exon	Packwood
Bentsen	Ford	Proxmire
Bingaman	Garn	Pryor
Bond	Graham	Quayle
Boren	Gramm	Reid
Boschwitz	Hecht	Rudman
Breaux	Heflin	Shelby
Bumpers	Helms	Simpson
Chiles	Hollings	Stennis
Cochran	Humphrey	Symms
Danforth	Johnston	Thurmond
Daschle	Kasten	Trible
DeConcini	McClure	Wallop
Dixon	McConnell	Warner
Dole	Murkowski	Wirth
Domenici	Nickles	

NOT VOTING—3

Gore	Kassebaum	Simon

So the motion to waive section 302(f) of the Budget Act was not agreed to.

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 50, three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The amendment would cause the subcommittee to exceed its allocation under section 302(b) of the Budget Act. It violates section 302(f) of the act. The point of order is justified and the amendment fails.

Mr. WEICKER. Mr. President, I ask unanimous consent that Senator HARKIN be added as a cosponsor of the amendment.

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

Mr. BYRD. Mr. President, both managers have indicated their willingness and their desire to press on. I would suggest that Senators count on the efforts to complete this bill today. If Senators have amendments, it is best they call them up.

Mr. PRYOR. Mr. President, does the majority leader have the floor?

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

Mr. PRYOR. Mr. President, I would like to request that the managers at this time, if possible, maybe give us an idea of how many amendments, with the idea that if we cannot finish this bill tonight maybe we could lay down amendments and stack some votes tomorrow.

The PRESIDING OFFICER. If the Senator will suspend, the Senate is not in order. Senators will cease audible conversation.

Mr. BYRD. Mr. President, I hope that Senators will not proceed on the theory that we cannot finish this bill tonight. I see no reason at this point why we cannot finish it and I hope we will. Will the distinguished Senator yield to me?

The PRESIDING OFFICER. Will the majority leader suspend for just a moment? The Senate is not in order. The majority leader deserves to be heard. Senators will cease audible conversation.

The majority leader.

Mr. BYRD. Will the Senator yield?

Mr. PRYOR. I would be glad to yield.

Mr. BYRD. Mr. President, would Senators on both sides indicate by a show of hands if they have amendments to this bill?

Senator EVANS has one. Senator RUDMAN has one. Senator WILSON has one. Senator HUMPHREY, I believe, has one.

It is my understanding that the managers know about these amendments. Could they indicate whether or not it is going to take long on these amendments?

Mr. CHILES. I do not know of any of them that are going to take very long, the ones we know about.

Mr. BYRD. Am I correct that the distinguished Senator from New Hampshire's amendment is relative to across-the-board cuts?

Mr. RUDMAN. If the majority leader will yield.

Mr. BYRD. The Senator from Arkansas has the floor.

Mr. RUDMAN. Will the Senator from Arkansas yield?

Mr. PRYOR. I am glad to yield.

Mr. RUDMAN. I have an amendment which I would like to offer which essentially accomplishes what the Senator from Connecticut wanted to accomplish but does it by an across-the-board cut; that is, by 1.94 percent,

and restores part of the energy assistance money. I thought we could debate that very briefly, I would hope. That is the way the Budget Act is written. That is an offset. Either vote it up or down. It should not take long to talk about it, unless somebody should have a problem with that and want to talk about it at great length.

Mr. EVANS. Will the Senator from Arkansas yield?

Mr. PRYOR. I am glad to yield.

Mr. EVANS. I have an amendment which has been cleared on both sides. It will not require a vote. It will take a very brief time. I am ready to go at any point to get it done.

Mr. WEICKER. Would the distinguished Senator from Arkansas yield?

Mr. PRYOR. I will be glad to yield.

Mr. WEICKER. I would have to respond to my distinguished colleague from New Hampshire that if his amendment is in the nature of raiding the various unfortunate people in this land in order to get money for low-income energy assistance, that was not the proposal of the Senator from Connecticut. So I want to disassociate myself, in the first instance, from that comment.

I would suspect that will take a little bit of debate, so when everybody understands that when we vote across-the-board cuts such as have been proposed of 2 percent, that this requires some explaining before the vote came to pass.

So, in no way is it a matter of just a few minutes. Obviously, every Senator wants to know what happens in terms of education, science, health, the retarded, the disabled, et cetera, as a result of that kind of an amendment.

I am getting tired also, I might add, of hearing of efforts targeting the AIDS money in the bill. I know it is a large amount of money. There is a 94 percent increase for AIDS.

I did not invent this deal. The figures in the bill are far below that suggested by the National Academy of Science and the National Institute of Medicine. If we have gotten to the point where we are going ahead, as I said, I am tired of talking about the subject. I am tired of those who have amendments as to moralizing on it. I am tired of Senators saying go ahead and take the money out of AIDS, they have some money—I am sorry about that. But the emergency was placed upon us and that is exactly why Gramm-Rudman-Hollings, whatever you want to call it, is ridiculous legislation. It does not take into account the fact that the world changes around us. The world changes drastically——

Mr. RUDMAN. Will the Senator yield?

Mr. WEICKER. No, I will not. I will yield to my good friend in a minute. But all of a sudden we are confronted with emergencies and what are we supposed to do about it? Say we are operating under Gramm-Rudman-Hollings versions 1, 2, 3, 4, or whatever version have you?

You know as well as I do where the money is but most of the cosponsors of your legislation are not willing to do it. Raise taxes? Yes, I think we ought to raise taxes.

I could not even get an additional $10 million for AIDS. I won by two votes in the committee the necessary money for the research facilities at NIH on AIDS. That was $20 million.

Does anybody want to go ahead and raise taxes? I will vote to go ahead and raise taxes to supply both low-income energy assistance and whatever is required for research? Are we going to get it from the Defense Department, $200 million to be devoted strictly to military personnel and their health care? I tried to do that on the floor of the Senate. We could not even get an affirmative vote on that.

Now we found a new pot. Those that have no voice in the politics of this country.

Indeed, not only do those that suffer from AIDS have no voice in the political sense, they are not going to have a voice, period, in a matter of months for most of them that are suffering from the disease. So there is a good pot to go to.

But what about the future? I happen to be a great friend, personal and political, of the distinguished Senator from New Hampshire and if he had not raised it, the Senator from Florida intimated he was going to go ahead and raise it. You go ahead and raise it, gentlemen, and I am going to tell you we are going to have a grand time on this floor and we are going to go line by line by line on this budget that is totally skewed because of no revenues and because of excessive defense spending. When it comes to the pittance that is left for the unfortunate of this Nation, that is not going to take a few minutes.

Why do we not just give up on the whole business of AIDS? You are right, there is $1 billion there in terms of education and in terms of research.

Well, I know only one way to fight it and that is the way that is best described in this budget. If that is where everybody wants to take the money from, fine. This is a free body. I am not going to filibuster. You all stand up there and make known your priorities.

But is seems to me that this particular appropriations bill can be the Senate's finest hour. We spend 95 percent of our time arguing about Graham-Rudman-Hollings, about the Budget Act, and about the defense budget. And that is about 95 percent of our time.

I am sorry about that. We have been on the floor for a matter of a few hours on education; on science; on health; on the disabled; on the retarded. And they are crowding us.

These people are crowding us. They are the ones that have created the deficits.

You know as well as I do they have not created the deficits. You created the deficit because somehow or other defense spending is not spending, and nobody has the guts to go ahead and vote the taxes. Defense spending is what has put us in this hole. The lack of courage; to go live up to a campaign slogan: I will never raise taxes; I will never raise taxes; I will never raise taxes: I will never raise taxes. Even though we have an AIDS epidemic on our hands. Come on.

But let us just do a 2-percent cut. Let us nick. Let us nick the rest of these people. I just would suggest to you my only problem is not the fact that every one of us does not have a right to go ahead and propose our amendments, but to indicate this will only take a few minutes. Knowing the way this body thinks, that is the way they would like to have it, but there is nobody going to go sneaking off in the night on this. They are going to know exactly what happens.

Mr. RUDMAN. Will the Senator yield the floor for 1 minute? I have not even offered the amendment yet and I notice the response I got. I am almost afraid to offer the amendment out of concern for the health and tranquility of my good friend from Connecticut.

Mr. PRYOR. If I might suggest we might put the Senator from Connecticut down as undecided.

Mr. RUDMAN. But I just want to say to my friend from Connecticut, I think one of the most absurd things facing this Nation is that the third largest item in this year's budget, greater than for AIDS, education, health, for everything, is interest: $150 billion. And we are talking about doing something else here today to cause the Secretary of the Treasury to go out and borrow more money and we will pay more interest.

I want to simply say I hesitate offering this amendment. But the fact is I want to say to my friend from Connecticut, and I would like to pose a question with the forebearance and indulgence of my friend from Arkansas which might save us some time.

Putting AIDS aside, am I not correct that some of the major programs within this bill, like NIH and education, are getting fairly substantial increases? Is that not correct?

Mr. WEICKER. That is not correct.

Mr. RUDMAN. That is not correct?

Mr. WEICKER. That is not correct.

Mr. RUDMAN. Let me just ask a specific question. Am I incorrect that NIH under this bill increases over last year by $685 million? That is the number I got from the subcommittee.

Mr. WEICKER. The answer to the distinguished Senator from New Hampshire is that under the current Senate proposal, fewer grants will be funded. Fewer grants will be funded for research in cancer, diabetes, heart disease, neurological disorders, et cetera; child health, arthritis, aging—than Congress has funded in 1987. The world is not standing still, Senator. Inflation is there.

Mr. RUDMAN. In other words, a half-billion dollar increase is insignificant? A half billion? That would run the State of New Hampshire's budget for 3 years. We are talking about an additional half-billion dollars. That is not a cut where I come from.

Mr. WEICKER. Senator, there is only one part of this budget that gets a real growth, increase, and you know what that is. It is defense. It gets the raise and I am telling you that you have got fewer grants, you have fewer grants just as—I ask for the regular order.

The PRESIDING OFFICER. The Senator from Arkansas retains the floor.

Mr. RUDMAN. If the Senator would yield for 1 minute? I want to ask the Senator for 1 minute.

Mr. PRYOR. I will yield for one moment.

Mr. RUDMAN. I ask the Senator a simple question. It was my intention to offer this amendment. But it is also my intention to try to preserve the quality of life and sanity of this Chamber of which there has been little lately.

Is the Senator from Connecticut advising me if this amendment is offered we will be on it for a matter of hours?

Mr. WEICKER. No, the Senator is not advising you that at all. The Senator from New Hampshire is the one who said it would take a few minutes. It is a rather meaty subject to take just a few minutes, does the Senator agree?

Mr. RUDMAN. I reserve my rights. Whether I offer the amendment or not remains to be seen.

Mr. GRAMM. Would the distinguished Senator from Arkansas yield very briefly?

Mr. PRYOR. I yield 2 minutes to the Senator from Texas.

Mr. GRAMM. First of all, I thank the distinguished Senator for yielding. Lest anybody be confused, let me set the facts straight. In this appropriation bill, total budget resources for Labor-HHS are up by 8.2 percent. The projected defense budget resources for this year are down 0.7 percent.

So, to say that we are increasing defense spending and we are cutting Labor-HHS simply is not factual.

Second, it seems to me that the distinguished Senator is very willing to spend money and increase the deficit, but when the distinguished Senator from New Hampshire attempts to offset the increase and take the money from somewhere else, it is somehow an outrage. The distinguished Senator from Connecticut says, "You want to take the money from the poor, unfortunate people of this country."

Where do you think we are taking the money from for every program we spend money on? From the people who do the work, who pull the wagon, who pay the taxes, who do not have 200,000 people demonstrating out in front of the Supreme Court because they are back home working to pay for these programs.

If you want something, you should be willing to pay for it. That is what the distinguished Senator is talking about.

Quite frankly, I am for his amendment. It seems to me his position is legitimate.

But to say we will just waive the Budget Act, forget about the deficit and the future of the economy is simply not an acceptable position. It was rejected by this body and I supported that rejection.

Mr. WEICKER. If I may make one 30-second response?

Mr. PRYOR. I yield 30 seconds.

Mr. WEICKER. Here are the magic figures being discussed, lumping the discretionary and mandatory together. What the Senator from New Hampshire is after is the discretionary. The answer is no, there has not been an 8 or 9 percent increase in the discretionary. Let us understand where the figures are and not just float out a figure of 8 or 9 percent increase. There is a small increase, not even equal to that of inflation, insofar as the total Labor-HHS discretionary budget is concerned. And, Senator, there are two parts of the budget.

Mr. PRYOR. Mr. President, I am about to yield the floor. I almost feel like I owe an apology to my colleagues. I merely asked a few moments ago to get an idea of what amendments may be offered so we may get an idea of when we might get out of here tonight. I think now I know less than I did when I asked the question 30 minutes ago. But I have enjoyed the exercise. I yield the foor.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 966

(Purpose: To provide that $500,000 appropriated for the income contingent loan demonstration program of the Department of Education be available for the National Academy of Sciences study pursuant to section 1341 of the Higher Education Amendment of 1986)

Mr. EVANS. Mr. President, in an effort to take one small step for mankind, and I wish to note that Neil Armstrong is the person who stated that, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington (Mr. EVANS) proposes an amendment numbered 966.

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

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

The amendment is as follows:

On page 59, line 25, strike out, "5,837,598,000" and insert in lieu thereof, "5,837,098,000".

On page 61, between lines 18 and 19, insert the following:

"For carrying out section 1341 of the Higher Education Amendments of 1986, relating to a National Academy of Sciences study on the use of volunteers in the classroom, $500,000 shall remain available until expended.".

Mr. EVANS. This amendment, I believe, has been cleared on both sides. Last year during the consideration of the Higher Education Amendments of 1986, the Senate approved my amendment calling for a comprehensive study of volunteers in our Nation's primary and secondary classrooms. It was approved in the conference report and signed by the President in October. It requires the Department of Education to make the study. They have so far refused to fund and do so.

This amendment does not take any money except that it sets aside $500,000 for this study from the amount appropriated for the income contingent direct loan demonstration program within the student financial assistance account.

Mr. President, this is a last resort effort. We have tried everything with the Department of Education. We have had no success. I urge adoption of this amendment.

Mr. CHILES. Mr. President, this amendment will shift $500,000 from the funds provided for the income contingent loan program to fund the study of volunteers in the classroom which was authorized in last year's higher education amendments. I know the Senator from Washington worked hard to have this study authorized and has now crafted the amendment to offset its costs. I am happy to support it and I understand Senator WEICKER also has no objection to it. I urge adoption of the amendment.

Mr. WEICKER. I support the amendment of the Senator from Washington.

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

The amendment (No. 966) was agreed to.

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

Mr. CHILES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 967

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire (Mr. Humphrey) proposed an amendment numbered 967.

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

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

The amendment is as follows:

Insert the following new section in the appropriate place:

"SEC. .

"The Secretary of Health and Human Services shall:

"(1) Issue a report to Congress within 90 days of the close of fiscal year 1988, of violations occurring during such year, of Department of Health and Human Services travel policy; and

"(2) Require that personnel found by the report to be in violation of Department travel policy, shall reimburse the Department for funds spent in violation of Department policy."

Mr. HUMPHREY. Mr. President, I will say first that the amendment has been accepted by the floor managers.

The amendment does two things: it requires the Secretary of HHS to write a report to Congress within 90 days of the close of fiscal year 1988 reporting on violations of the Department's travel policy that occurred during the same fiscal year. This is a one-time, 1-year requirement.

The second provision requires that personnel found by the report to be in violation of the Department's travel policy shall reimburse the Department for funds spent in violation of the policy.

Mr. President, over the years, the Department of HHS has compiled probably the worst record of abuse of its travel policy of any department in the Government, at least to the extent that this Senator is aware.

Just last April, a nominee for Assistant Secretary for Human Development Services was found to have taken an unusual number of trips which happened to coincide with the time and place of her son's college football games. Thorough investigation by the inspector general's office made at the request of this Senator determined that the nominee's staff had solicited these trips so as to coincide with the games of her son's college. Indeed, the inspector general found that on five of these trips no Government business whatever was conducted.

As a result of this report of the inspector general, the nomination was withdrawn, but get this: the Secretary then named the person to Special Assistant to the Secretary, a position that did not require confirmation.

What a very poor example the Secretary set in failing to properly hold accountable this person who cheated the taxpayers in violation of the Department's travel policies.

This is not the first instance that has made a splash in the news. In 1985, the Deputy Assistant Secretary for Population Affairs was investigated for taking at least 14 trips in violation of travel policy, interestingly one trip to see her son who is a star lineman for a professional football team play in a game. She resigned following these disclosures.

The former Department of Health and Human Services' Civil Rights Director resigned her post last March after inquiries into a number of suspect activities on her part, including 126 trips to 38 cities and 9 foreign countries at a cost of $87,000. The FBI was asked in August of this year to investigate such travel after a GAO investigation found suspicious travel voucher claims.

The same person was subsequently named Special Assistant to the Secretary.

It seems down at HHS if you flagrantly violate the Department travel policy, setting horrendous examples for your staff, and it comes to the attention of the public, you get appointed Special Assistant to the Secretary which insulates you from any accountability. I think that is a situation that needs to be corrected, Mr. President.

Mr. President, that is the point of this amendment. I have discussed it with the floor managers and I hope they are prepared to accept it.

The PRESIDING OFFICER. Is there further debate?

Mr. CHILES. Mr. President, we have looked at this amendment and it seems to be a reasonable approach. It does require that people in violation shall reimburse the department for the funds. It does give them a period of time in which to do that.

I would suggest it be accepted.

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

The amendment (No. 967) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 968

(Purpose: To provide funds for demonstration grants for health care services in the home for those individuals who are suffering from a catastrophic illness)

Mr. WEICKER. Mr. President, I send an amendment to the desk on behalf of Senator Hatch and Senator Bradley.

The PRESIDING OFFICER. The clerk will read the amendment.

The bill clerk read as follows:

The Senator from Connecticut (Mr. WEICKER), for Mr. HATCH, for himself, and Mr. BRADLEY, proposes an amendment numbered 968.

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

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

The amendment is as follows:

On page 21, insert between lines 5 and 6 the following:

"For carrying out subpart 2 of part A of title XIX of the Public Health Service Act as contained in the Senate Amendment to H.R. 1451, $5,000,000 is to be available June 1, 1988.".

On page 80, line 3, strike out "22,600,000" and insert in lieu thereof "$23,600,000".

Mr. WEICKER. As I understand it, this is an amendment that has been cleared by the distinguished chairman of the committee. It provided $5 million in new appropriations for demonstration grants for the provision of health care services in the home. Funds will be available after June 1, 1988, because of a delay in promulgating regulations in grant announcements. The authorization for this provision was approved by the Senate as an amendment to H.R. 1471 as currently pending in conference. It requires a reduction in outlays of $1 million for the Department of Health and Human Services, Department of Education, and Department of Labor travel budgets.

Mr. HATCH. Mr. President, I rise today to offer an amendment with Senator BRADLEY to provide $5 million for efforts to expand health care services in the home. This money shall be available for a program we in the Senate approved on August 6. This is a new subpart 2 of part A of title XIX of the Public Health Services Act.

I thank my colleagues who have supported this effort in the past, in particular Mr. INOUYE, Mr. BRADLEY, and Mr. GARN. Getting this money for Health Care Services in the home, with a priority for our Nation's senior citizens, will enable us to protect our ill. It will continue the efforts of this

honorable body to realize the vision of revitalized medical care for our Nation's citizens who want health care services in the home.

Many of you are well aware of my strong beliefs on this issue. And I believe with our actions, we can achieve many common goals. As one syndicated columnist recently penned concerning the mix between Government and medicine, "The problem is not whether health care costs appear on the Government or private side of the national ledger. The problem is how to get ourselves the best care at the least cost." Today we will get the best of both—good care at affordable prices by affirming our support of expanded availability of health care services in the home through this funding.

While we are currently in conference on the specifics of the authorizing legislation, I cannot describe precisely how the program will operate. But we in the Senate approved authorization to use these funds for State grants to provide health care services to people with catastrophic or chronic illness who can be cared for in their own homes. A maximum of $2,500 can be spent on each person. The money would be used to demonstrate which effective care can be provided. And I am more than ever committed to see this program become a reality.

The offsets I have identified in this amendment would require a reduction in travel expenses by $1 million from the Department of Health and Human Services, the Department of Education, and the Department of Labor.

In conclusion, I urge my colleagues to support this amendment and if adopted fight for it in conference. It provides a glimmer of hope for thousands who should not suffer alone.

Mr. WEICKER. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment offered by the Senator from Connecticut.

The amendment (No. 968) was agreed to.

Mr. WEICKER. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 969

(Purpose: To require a report on the status of certain mine safety and health regulations relating to self-contained self-rescue devices)

Mr. WEICKER. Mr. President, I propose an amendment on behalf of Senator HATCH and Senator KENNEDY. I send it to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will read the amendment.

The bill clerk read as follows:

The Senator from Connecticut, (Mr. WEICKER) for Mr. HATCH, for himself, Mr. KENNEDY, and Mr. METZENBAUM, proposes an amendment numbered 969.

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

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

The amendment is as follows:

On page 15, line 17, before the period, insert a colon and the following: *"Provided further,* That the Secretary of Labor shall submit to Congress not later than February 29, 1988, a report on the status of, and the timetable for, issuance of final regulations concerning self-contained self-rescue devices; safety standards for underground coal mine ventilation; safety standards for roof control; standards for diesel-powered equipment in underground coal mines; and safety standards for electricity, explosives and blasting in underground mines."

Mr. WEICKER. Mr. President, this requires the Secretary of Labor to issue a report by February 29, 1988, on the status of several Mine Safety and Health Administration regulatory proposals. The amendment allows Congress to stay directly involved in the oversight of the Mine Safety and Health Administration.

Mr. HATCH. Mr. President, the amendment I am offering will help the Committee on Labor and Human Resources accomplish one of its most important goals for this session—preserving the safety and health of the American miner.

Beginning last year, when I was chairman of the committee, and continuing this year under the leadership of the Senator from Massachusetts, Mr. KENNEDY, the committee has held a series of oversight hearings on the Mine Safety and Health Administration [MSHA], in general, and the Wilberg mine disaster, in particular. The hearings revealed an alarming number of problems with the agency and raised serious questions about its policies and management.

One of the key areas of concern was MSHA's repeated failure to act on a variety of proposed regulations, including those involving hands-on training with self-contained self-rescue devices, roof control standards, ventilation standards, and the use of diesel equipment underground. As I understand, work is also underway on standards concerning electricity, explosives, and blasting in underground coal mines.

While the Department is working on each of these proposals, the process is by no means complete. We cannot afford to let this process slow down. Put more directly, we cannot afford to let MSHA revert to its past practices.

The purpose of the amendment is to require the Department of Labor to report to Congress by February 29, 1988, on the status of these regulatory proposals. This report will provide us with sufficient time next year to judge how the Department is doing and to decide whether further congressional action is necessary.

I believe this amendment is particularly important given the recent departure of Allan McMillan as the acting head of MSHA and the expected resignation of Secretary Brock. The amendment will help to make sure that action on these regulatory issues is not overlooked or forgotten amidst the confusion that always surrounds a change in command.

I hope my colleagues will join me in supporting this amendment.

Mr. KENNEDY. Mr. President, I commend the Senator from Utah for this amendment.

I chaired oversight hearings of the Mine Safety and Health Administration in March of this year which demonstrated that there were serious problems at the agency.

One of the most glaring problems was the fact that safety regulations which had been proposed by the agency's best experts were being rewritten to conform with the recommendations of the coal industry. As such, they afforded far less protection to miners.

The standards that were being watered down included those dealing with roof control, ventilation, electrical, and explosives and blasting.

This was a violation of the Mine Safety and Health Act which forbids any reduction in health and safety standards. And in instance after instance, lives were being lost because regulations were not tough enough.

A few weeks later, Senator HATCH chaired a hearing on the Wilberg mine disaster which demonstrated that the tragic loss of life in Wilberg might have been prevented if certain safety regulations had been more specific.

As a result of these hearings, acting Assistant Secretary Alan McMillan took action to remedy the situation and so I understand that things are moving along in a proper direction. But I think this amendment will help make sure that the safety regulations continue in that direction. This was the intent of Congress. And Senator HATCH and I intend to follow this issue closely so that America's coal miners get the protections they deserve.

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

The amendment (No. 969) was agreed to.

Mr. WEICKER. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 970

(Purpose: To increase the amount appropriated for low income home energy assistance and provide offsetting funds)

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I send an amendment to the desk on behalf of myself and Mr. KASTEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN], for himself and Mr. KASTEN, proposes an amendment numbered 970:

On page 36, line 26, strike out "$1,237,000,000" and insert in lieu thereof "$1,669,386,000. Notwithstanding any other provision of this Act, the amount made available by this Act to carry out each discretionary program funded under this Act shall be reduced by 1.94 percent.".

Mr. RUDMAN. Mr. President, I have decided to offer the amendment because I am convinced that the allocations within the committee, although done in good faith and good conscience, are just not fair for a number of reasons. It is not fair because a sector of our population, particularly the elderly poor, who depend on low-income energy assistance, have had their program cut enormously while other programs have been increased.

I do not intend to talk for a long time, but for all of those Senators within this Chamber and those who are watching or listening in their offices, or their staffs, I want to give a few statistics which, it seems to me, ought to some extent to allay their fear that this amendment is going to do great damage to programs like education and health and others. So with the indulgence of the Senate, I will spend just a few moments going through a few significant programs where they are now and where they will be at the conclusion of this amendment if it is acted upon favorably by this body.

Let me start with the National Institutes of Health. Their budget will have an increase of $553 million over fiscal year 1987, which will be a 9-percent increase, assuming that this amendment were passed. AIDS funding is being increased enormously, for good reason. It will still have an increase of $450 million if this amendment were adopted. Maternal and child health, a very important program, after this adjustment will still receive a 10-percent increase. The CDC program would receive a 26-percent increase after this amendment was adopted. The Head Start Program would receive a 9-percent increase after this amendment was adopted. The Department of Education would have an increase of $1.38 billion over the fiscal year 1987 budget, a 7-percent increase. Chapter I would be up 11 percent, handicapped education up $188 million over fiscal year 1987. Impact aid would be slightly down. Science and math would be up by 84 percent, and vocational education would be up by 6 percent.

Now, I think I can anticipate what my friend from Connecticut is going to say. He is probably going to tell us that all of these increases are necessary, that they are vital, and that the health and education of many Americans is a very high priority. I agree with him. The problem we have is that we have within this subcommittee just so much money to spend. I find it patently unfair that we have had a reduction in this account of hundreds of millions of dollars and yet we have been able to increase other programs by substantial amounts.

Now, I come from a State where low-income energy assistance is vital, a State in which many of the people who qualify are people whose only source of income is Social Security. And when fuel oils costs are at their present levels and temperatures are in the low single digits or below zero in many cases, those people have great difficulty keeping their homes warm. A phrase that is used in New Hampshire is that those people have to make a choice some months between heating and eating, spending their money on fuel oil or on food.

Now, I am going to stipulate that we probably ought to be spending more money on health, on education, on AIDS research, et cetera than we are now. I will stipulate to that. I will support that if the revenue is available, or other cuts are made. But we come to this floor with an appropriation bill that in its final form singles out this vital low-income program to bear the brunt of our efforts at fiscal restraint. For the life of me I do not understand how we can justify the kind of increases we have in some areas and say it is all right to reduce substantially the money that we have for low-income energy assistance.

Under this Budget Act, we have two choices: We can have a budget waiver, and thus not have offsets; or we can have an offset. The Senator from Connecticut offered a waiver. It failed. I am offering an offset in a slightly lesser amount.

Let me conclude by simply saying this: It is pretty difficult to explain to elderly Americans that we are increasing accounts in the area of health research, and yet we are asking someone to live in cold temperatures, particularly people in their seventies and eighties.

One final note: I hope nobody tries to make the argument here that because of oil overcharge court settlement that money is not needed for the low-income energy assistance fund. The facts are the States have discretion as to how to spend that money, and in many States that money is being spent on weatherization and other programs, but not in this particular account.

I do not have much else to say. It is a fairly simple choice. What this bill is all about is making choices. I say to my friend from Connecticut that I have supported while he was chairman of the subcommittee and as ranking member most of his initiatives, but I am convinced that the allocations that were made this year have been unfair to the elderly poor who depend on this program to stay warm. It is that simple.

I hope my colleagues will look at these numbers, and note that with a 1.94 percent across-the-board cut, there is still ample funding to carry out most of the things that are to be carried out; not all, but most. And the elderly will have a better break at keeping warm during the coming winter.

I yield the floor.

Mr. MITCHELL. Mr. President, I rise to support the amendment of the distinguished Senator of New Hampshire, Senator RUDMAN.

His amendment would add back $400 million in funding for the Low-Income Home Energy Assistance Program [LIHEAP] and pay for that by imposing an across-the-board reduction of 1.94 percent in the discretionary spending programs included in this legislation.

When the House approved H.R. 3058, it included $1.825 billion for LIHEAP in fiscal year 1988. The Senate Appropriations Committee approved a funding level of $1.237 billion for LIHEAP, a 32 percent reduction in the program. I think it would be irresponsible for the Senate to allow LIHEAP to suffer the reduction called for in H.R. 3058.

The Human Services Reauthorization Act of 1986 authorized gradually increasing spending for LIHEAP and authorizes $2.132 billion for fiscal year 1988. The fiscal year 1988 budget resolution, House Concurrent Resolution 93, approved by this Senate assumes level funding for LIHEAP in the coming year, $1.8 billion.

LIHEAP provides States, the District of Columbia, territories, and Indian tribes with block grants of Federal funds, allocated by formulas based largely on home energy expenditures by low-income households. The block grant funds are used to provide low-income households with financial assistance for home heating and cooling costs, energy-related crisis intervention aid and low-cost weatherization.

LIHEAP is administered in Maine by the division of community service and plays a vital role in helping more than 60,000 low income, elderly, and handicapped households meet their energy needs. These needs are often signifi-

cant because Maine's harsh climate requires home heating expenditures from mid-October to mid-May.

In fiscal year 1987, Maine received approximately $24.7 million in LIHEAP funding. As a result of the reduction called for H.R. 3058, the State stands to lose approximately $8 million in this fiscal year. That leaves the division of community services with two unacceptable alternatives.

Either one-third of the homes which presently received LIHEAP benefits would be denied them. Or, the average heating season benefit would be reduced.

My staff spoke on the phone this afternoon with the director of the division of community services who said Maine has chosen the second option. As a result, unless the Senate accepts the Weicker amendment, the benefit in Maine will be reduced from $315 this winter to $228. That doesn't help a great deal in Maine, where a heating bill in a rough winter could reach $1,200.

Earlier this afternoon, I voted with a number of other Senators in support of a motion to waive the Budget Act in support of an amendment to add back sufficient funding for LIHEAP to be maintained at its present level. Unfortunately, that motion failed to secure the necessary votes.

That is clearly the more attractive alternative for those of us who recognize the merits of the programs funded under this Appropriations Act.

Nationally and certainly in my State of Maine, the need to increase LIHEAP funding within H.R. 3058 is clear. It's my hope that the Senate will respond to that need and approve this amendment.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, my remarks will be very brief. I am going to move to table the amendment of the Senator from New Hampshire. I compliment him for making his point the right way; he voted against and spoke against the motion to waive the Budget Act. And then because of his strong feeling for these low-income energy assistance programs, he moved to cut other programs.

The Senator from Florida is reluctant to move to table. I do not have to repeat all my reasons why we tried to set the priorities in the feeling that there were revenues out there from other sources. It is very hard to set the priorities. But the only other thing I will say is that the House does have funds for this program. We will go to conference with the House. The House also, because they do not use budget outlays, has considerably more money in a lot of programs in budget authority than we have. So there will be a spirited conference, I am sure, that we will have with the House.

Mr. WEICKER. If I may have 1 minute, it will be 1 minute.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I will have no part in setting the poor and sick and the uneducated and the homeless and the elderly and the young at each other's throat in the arena. That is exactly what this amendment does. I oppose it.

Mr. CHILES. Mr. President, I move to table the amendment.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Florida, Mr. CHILES, to lay on the table the amendment of the Senator from New Hampshire. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. LUGAR] is necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

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

The result was announced—yeas 68, nays 28, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—68

Adams	Evans	Mikulski
Armstrong	Exon	Moynihan
Baucus	Ford	Murkowski
Bentsen	Fowler	Nickles
Biden	Garn	Nunn
Boren	Glenn	Packwood
Bradley	Graham	Pell
Breaux	Grassley	Pressler
Bumpers	Harkin	Pryor
Burdick	Hatch	Reid
Byrd	Hatfield	Riegle
Chafee	Heflin	Rockefeller
Chiles	Hollings	Sanford
Cochran	Inouye	Sarbanes
Cohen	Johnston	Shelby
Cranston	Kennedy	Stafford
D'Amato	Kerry	Stennis
Daschle	Lautenberg	Trible
DeConcini	Leahy	Warner
Dodd	Levin	Weicker
Dole	Matsunaga	Wilson
Domenici	McConnell	Wirth
Durenberger	Metzenbaum	

NAYS—28

Bingaman	Humphrey	Rudman
Bond	Karnes	Sasser
Boschwitz	Kasten	Simpson
Conrad	McCain	Specter
Danforth	McClure	Stevens
Dixon	Melcher	Symms
Gramm	Mitchell	Thurmond
Hecht	Proxmire	Wallop
Heinz	Quayle	
Helms	Roth	

NOT VOTING—4

Gore	Lugar
Kassebaum	Simon

So the motion to table was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 971 AND 972

(Purpose: To specify the use of $20,000,000 for facilities for AIDS research)

Mr. HARKIN. Mr. President, I send to the desk two technical amendments to be considered en bloc and ask for their immediate consideration.

The PRESIDING OFFICER. Is there objection to the en bloc consideration of the amendments? If not the clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HAWKIN] for Mr. CHILES proposes amendments numbered 971 and 972.

Mr. HARKIN. Mr. President, I ask unanimous consent the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT No. 971

On page 48, after line 7, add a new section as follows:

"SEC. . Section 465(b) of 42 USC 286 is amended by inserting between (5) and (6) an additional charge to the Secretary to "publicize the availability of the above products and services of the National Library of Medicine." "

AMENDMENT No. 972

On page 27, line 19, after "$50,000,000,", insert the following: "of which $20,000,000 is provided for activities related to AIDS research to provide for the repair, renovation, modernization, and expansion of existing laboratory facilities; and to acquire by lease or otherwise laboratory and/or office space,".

Mr. HARKIN. Mr. President, the first amendment provides language necessary for the NIH building and facilities funds to be spent as intended.

The second amendment conforms the bill to language recommended by the committee to disseminate NIH medical information to American health professions.

Mr. President, these amendments have been cleared with both sides of the aisle, and I ask for their immediate adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendments of the Senator from Iowa.

The amendments (No. 971 and 972) were agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I do not have an amendment, and I will not take very long.

I do not know if we are getting close to completion of the bill. I do not see the managers here.

Mr. President, I just wanted to make two points before we finally adopt this bill.

I was hoping on one of the points that my good friend, Senator WEICKER, would be on the floor just for a verification. I have looked up the numbers. I heard him say, and I am sure that in the heat of the debate about this bill, some statements were made about defense, and how fast defense spending is growing, being the cause of the deficit. Maybe the distinguished Senator was misinformed or perhaps I am misinformed, but I would like to correct the RECORD.

I have gone out and researched the numbers, and I will not speak from memory so I can state in the RECORD correctly what has happened to defense budget authority over the last 3 years. We constantly tell the American people that defense spending is growing in some astronomical way, and it is the cause of all the deficits, and it is going to break the bank.

I very much would like to give you the exact numbers on defense budget authority or program authority, the same thing we are talking about here, and then I will compare it with budget authority in the bill before us.

So let me give you the numbers. It is almost hard for me to say this, because I am not used to such a small increase in anything.

Mr. STENNIS. May we have order. This is an important bill. What the Senator says is worth hearing many times over. May we have quiet?

The PRESIDING OFFICER. The Senate will be in order.

Staff and Senators take their conversations to the Cloakroom.

Mr. DOMENICI. I thank the distinguished chairman of the Appropriations Committee for his comments regarding order.

But as I was saying, Mr. President, I even have trouble saying this because around here, we are not used to talking about increases that are so small. But the budget authority for the Defense Department of the United States in the fiscal years, 1985, 1986, and 1987, which has just finished, have grown by the astronomical sum of $200 million. Now in percentages, as I indicated, we do not even talk about that. It is .0007. I have been told, forgetting my math, that is expressed as seven ten-thousandths of 1 percent. That is the programmatic increase in defense spending over fiscal years 1985, 1986, and 1987.

Now, I am not here to say that the discretionary part of Labor-Health and Human Services has grown by some incredible amount, either, because it has not. If my numbers are correct, it has grown by $2.8 billion over those 3 years, for a total increase of 8 percent. Now, that may not even be enough. I am not here arguing that point. It may be too much growth for some.

But I do not think we ought to leave the impression that we have dramatically inceased defense over the last 3 years, and because of that we are cutting something else. The truth of the matter is that it is .0007 percent over 3 years. That is the total increase in budget authority for defense. For the bill before us, it is $2.8 billion, or 8 percent. And I think that is correct. I think it is technically in all ways correct, and it is comparing apples with apples, or budget authority with budget authority, which eventually costs money and eventually spends out.

Having said that, I just want to remind the Senate that even though we are going to pass this Labor-Health and Human Services bill here today and technically in all respects—and I am not arguing with my friend who chairs the subcommittee and who chairs the Budget Committee—it is within budget.

The problem is that it is within the budget that we passed here several months ago. When you take that budget and distribute it, you give each subcommittee what it should get for its bill, and it is probably technically within it. Although I would remind Senators that although it is within its 302(b) budget allocation, we have about $100 million in outlays that were taken out of a reserve fund that was for welfare reform. And, obviously, I am not going to argue that issue here.

But what I am suggesting is that even another $110 million, that is the number, over what we planned to spend in that budget of several months ago is being spent here now because we have used some of the reserve fund that was to be spent if we acted on welfare reform. The distinguished chairman of the subcommittee has prevailed with the idea that there is some welfare reform in process someplace and so we can spend from the reserve.

Now, why do I make the point? I only make the point because, Mr. President and fellow Senators, we have been talking about reducing the deficit by $23 billion in order to comply with the Gramm-Rudman-Hollings fix of this year.

If my arithmetic and calculations are right, if we pass all the appropriations bills that we contemplate and if none of them exceed their limits, we will have saved toward that $23 billion that we have got to find only $300 million. And I am leery of that figure, but let us use it. If we pass them all, we talk about a tight budget, but let me repeat, we will have saved maybe $300 million. So I guess if my arithmetic is right, we have $300 million down and we have $22.7 billion to go.

I am just asking: Where do we get the $22.7 billion? And I do not know. I assume there are some who think we are going to get it by saving 6 or 7, some might even say $8 billion, in defense. Well, for those who know defense—and there are some that might be listening—that is expecting to use the $289 billion low-tier level. That will save you $6 billion. I do not think there is anybody who thinks you are going to get by with that. I do not think you can produce an authorization bill that will live with it. The one we passed here was $303 billion, not $289 billion. So where do we get the $22.7 billion in deficit reduction?

I am hearing that a tax is being developed, working its way through the committees. I am not passing judgment on its propiety, on the ingredients in it; or whether have they done judicious things. I am just suggesting that I do not believe anyone is going to vote for a tax bill unless you provide the full $23 billion reduction in the deficit someplace. If anyone thinks you are going to send through both Houses a tax bill increasing taxes $12 billion and you are going to have defense assume the $289 billion low-tier level to save $6 billion of it, that still will not get you the $23 billion in deficit reduction.

But I submit that those who are putting a tax package together ought to seriously consider whether it even makes sense; whether 30 Senators, much less 51, would vote for something like that. I do not believe they will; whether the President would sign it, I do not think there is a chance.

So I guess I am asking two questions. Since we do not have a budget—and anybody who thinks we have a budget is just mistaken. I mean, we have some kind of a budget out there, but we have a Gramm-Rudman-Hollings mandate that supersedes it, and has very little to do with the budget that we passed. There is no budget that is operative. That is point No. 1.

Point No. 2: Where is the $23 billion in savings or reductions in the deficit? I am not here to suggest that I have an answer myself. I am not suggesting that I should be part of putting such a package together. But it does seem to me that we ought to know that, as we pass these appropriation bills, none are astronomically out of line. They all meet that budget of several months ago. But, all together, if you pass them all, they may save $300 million toward that $23 billion.

So I do not know where we go next. And in the euphoria of saying these all fit the budget—and they do, other than the question about the reserve fund, which is a serious one, and I am

not going to make the point here; they do—but they do not get us anywhere in terms of the $23 billion that we have to find to reduce the deficit.

Mr. President, the Labor-HHS appropriation bill is the largest appropriations bill we have considered so far this year.

Total budget authority for this bill is $115.4 billion, and outlays are nearly $93.8 billion. It is an important bill, and technically it is within its budget allocation.

But, I must remind my fellow Senators that it is within a revised allocation, revised by the fact that the committee released $300 million in budget authority and over $100 million in outlays from a welfare reserve fund, in order to stay within budget.

Now I do not deny the fact that the bill is technically within the assumptions of the budget resolution adopted last summer, and that no budget point of order exists, but I do want to suggest that the budget resolution really has become meaningless.

What is important is how does this bill or any other spending bill that comes before us over the next month impact on the required $23 billion deficit reduction mandate of Gramm-Rudman-Hollings II.

By my best estimates this bill is nearly $1 billion in budget authority over the baseline on which the $23 billion sequester estimate will be made.

But I am not picking on this bill, quite to the contrary, I generally support the needed funding in this bill. What I am concerned about is where this, and all the other spending bills yet to come, fit within the overall $23 billion package that we need to develop if we are to avoid the across-the-board cuts that will surely happen if we do not have a plan.

If we were to enact all the nondefense appropriation bills as reported from the committee, or as based on their budget resolution allocation, or as have previously passed this Senate, I am here to tell my fellow Senators we will have enacted the grand sum of $300 million in deficit reduction out of the needed $23 billion.

I am afraid if we continue down this route we will have a sequester and that mindless formula will do the cutting for us. Let me tell you, the nondefense appropriation bills will be cut about $17.9 billion in budget authority and nearly $9 billion in outlays if we let that process go into effect.

We need a plan to avoid that from happening, we need a plan to find $23 billion in deficit reduction and we need to do that soon.

Where is the $23 billion?

Mr. GRAMM. Mr. President, I will be brief, because I know Members are ready to vote.

Earlier this afternoon, we had a discussion about these budget numbers. During that discussion, I said that it was strange to hear people talking about explosions in defense spending and how tightfisted we were with Labor-HHS appropriations when the reality was that the defense budget authority is down by 0.7 percent this year from last year and the Labor-HHS appropriation before us was up 8.2 percent compared to the budget resources last year.

A question was raised as to whether that was discretionary spending. So I went back and looked at the numbers and, sure enough, I had included loan obligations in the 8.2 percent and I want to correct the number. The number is actually 9.6 percent that discretionary budget authority is up according to the Office of Management and Budget figures; the office that will determine whether we have a sequester or not.

Also, in trying to be fair, I called up the Congressional Budget Office. By their figures, budget authority in the bill before us compared to last year's level, including the supplemental, is up by about 7 percent.

So, I do not want to start a long speech about the $23 billion we have to save or else we are going to have an automatic across-the-board cut. I just want to make the point that, depending on whose scoring you are using, we are getting ready to vote on final passage on a bill that raises spending authority between 7 and 9½ percent.

If we really want to avoid an automatic across-the-board cut, I would submit that we ought not to be raising spending in this one bill by over 7 percent.

I hope some of my colleagues will join me in voting no, as an indication that we really believe that at least some of the $23 billion ought to come from controlling nondefense discretionary spending.

At the low tier, we are going to save $6 billion in defense. If we applied the same rate of growth to the nondefense discretionary parts of the budget that we are applying to defense, we would save another $5 billion and that would give us $11 billion of savings.

It seems to me not cruel and inhumane punishment, or unreasonable, that we ought to apply the same standards to the discretionary part of the nondefense budget that we apply to the defense budget. In fact, I would hope that the President would veto any appropriations bill that increases the discretionary part of the nondefense budget by a greater rate of growth that Congress increases the defense budget. I think that kind of parity is what we must have if we are going to avoid the $23 billion sequester order, and I yield the floor.

WASHINGTON STATE'S FAMILY INDEPENDENCE PLAN

Mr. ADAMS. Mr. President, I rise to discuss with the distinguished manager of the bill an issue of great importance to my State. Washington State has developed an innovative new welfare plan, the Family Independence Program [FIP], designed to help welfare recipients escape the trap of dependency. This program provides a multiservice assistance package, including job placement and training, child care, and guaranteed child care and Medicaid for a year after permanent placement. It is budget neutral, and passed the Washington Legislature overwhelmingly.

Washington State needs congressional authority to use the funds it receives for AFDC, Food Stamps, and Medicaid to conduct this program. Every effort has been made to find appropriate substantive legislative vehicles for this legislation. Waivers have been included in various House bills, and the AFDC waiver is in Senator MOYNIHAN's welfare reform bill. The Congressional Budget Office has concluded that these waivers are budget neutral. Inclusion of these waivers has received overwhelming bipartisan support.

Unfortunately, time is of the essence. Under the terms of the law authorizing FIP that passed the State legislature, the Governor must submit the Federal waivers to the legislature by February 7, 1987. This means that the necessary Federal legislation must be passed as soon as possible.

I have previously discussed with the distinguished manager of the bill the possibility of attaching the AFDC and Medicaid waivers to some type of appropriations vehicle. At this time we are still working with the Finance Committee to find an appropriate vehicle, and so we do not plan to offer any amendment to the Labor-HHS appropriations bill at this time.

I am, therefore, bringing this matter to the distinguished manager's attention at this time merely to again alert him to my concerns, and to let him know that I may be seeking his assistance later in attaching this waiver legislation to the continuing resolution should that be necessary.

Mr. CHILES. I thank the distinguished Senator for bringing this matter to my attention. We have discussed this previously, and I appreciate his need to find a timely legislative vehicle for these important waivers. I appreciate the Senator's efforts to find appropriate substantive vehicles for these waivers, and I understand that time may run out on these efforts. If that should be the case I understand the Senator may seek to attach these waivers to the continuing resolution. In that case, pending approval from the relevant authorizing committees, I assure the Senator that I will do all I can to satisfy the Senator's concerns.

Mr. ADAMS. I thank the distinguished manager for any assistance he can provide.

Mr. HEFLIN. At this point, I would like to inquire of the Senator from Florida about the action of the committee regarding full funding for cancer center core grants in the cancer centers program at the National Cancer Institute.

Is it my understanding that full funding for the cancer center core grants is included in this bill?

Mr. CHILES. The Senator is correct.

Allow me to indicate to you why we decided to take this action. The rather severe difficulties facing cancer centers across the country were brought to my attention when I chaired the hearings of the subcommittee. The data submitted by the witnesses, especially those from the Association of American Cancer Institutes, which represented the cancer centers of the country, indicated that figure of $118 million would be required for the cancer center core grants to be funded at the peer reviewed level, and to provide for the potential of new cancer centers coming on line—the National Cancer Institute has already received excellent applications from proposed new cancer centers for funding. I would like to make the point strongly here that this indication of interest on the part of the committee that the cancer centers be funded at the full peer reviewed level does not in any way impact on the peer review process itself.

In summary, then, given all this evidence, and given the actions of the committee over the last 3 years, I thought that it was prudent to indicate in the bill report itself the figure of $118 million as having been included in the NCI budget for this year.

I was very pleased to learn several weeks ago of the Senator's interest in this matter, and was delighted to learn that he fully supported the decisions that we made at the subcommittee and the full committee levels. When we deliberate on a matter such as this, given current budget restrictions, it is always a pleasure to find that our decisions have been supported by such a distinguished Senator with such deep interest in cancer research.

Mr. HEFLIN. I have heard from Dr. Albert F. LoBuglio, director of the Comprehensive Cancer Center, University of Alabama at Birmingham about this problem. That cancer center has done extraordinary work for the people of Alabama. For example: The cancer center at UAB has developed some of the most sophisticated resources for basic science and clinical care in the Southeast, and is now a regional, national and international resource for patient care and research. A number of remarkable cancer research advances have taken place at UAB. Its scientists were the first to identify the human natural killer cell, thought to play a key role in the body's destruction of cancer cells. They were also the first to discover that about one-fifth of children with leukemia have a disease or primitive antibody forming cells, which require more aggressive treatment to cure that patient.

At this point, I would like to insert my letter of inquiry to the National Cancer Institute requesting information about how much would be required to fund the cancer center core grants at full peer reviewed levels, and also to insert the response I received from the Director of the National Cancer Institute, indicating that the level of $118 million would be required. It is my understanding that this is an official letter, cleared through the appropriate agency review at the National Institutes of Health.

I thank the Senator from Florida for his excellent leadership on this matter.

The letter follows:

NATIONAL INSTITUTES OF HEALTH,
NATIONAL CANCER INSTITUTE,
Bethesda, MD, July 29, 1987.

Hon. HOWELL HEFLIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HEFLIN: Thank you for your recent letter expressing interest in the National Cancer Institute (NCI), particularly the Institute's Cancer Centers Program. The centers are an integral part of the total NCI program, which I would like to describe in some detail before answering your specific questions.

As you are aware, the NCI has set as a goal for the year 2000 a 50 percent reduction in the cancer mortality rate. Three specific areas must be addressed directly to meet this objective:

Cancer prevention through smoking prevention and cessation and dietary modification;

Early cancer detection through effective screening programs; and

Widespread application of the latest cancer treatment regimens.

Successful attainment of these three objectives is dependent upon a network of cancer control resources as mandated by the National Cancer Act of 1971—resources that I am pleased to say are in place. Cancer centers are a critical component of this network, together with other programs such as the Clinical Cooperative Groups and their outreach programs and the Community Clinical Oncology Program. Linking these resources to community practice is the Physician Data Query (PDQ) system, a user-friendly, computerized database that provides information on the latest cancer treatment and protocol studies to physicians and health professionals. Finally, the impact of this resource network on the nation is measured through our Surveillance, Epidemiology, and End Results (SEER) program, which tracks cancer incidence, survival, and mortality in the U.S. population. This NCI network provides the balance between basic cancer research and the clinical application of research findings. Support for the Cancer Centers Program is an important ingredient in maintaining such a balance.

The specific information you requested concerning funding for the cancer centers is as follows:

The FY 1988 President's Budget reflects a budget consistent with FY 1987 levels, with the exception of increases for AIDS research and Federal personnel adjustments, as well as the elimination of the Institute's construction funds;

The President's Budget for FY 1988 for centers is $93.2 million. The NCI anticipates being able to support competing renewal centers at approximately 60 percent of the estimated peer-reviewed approved level as well as funding the non-competing continuation center grants in a manner consistent with their FY 1987 awards. Although the mix of cancer centers changes as a result of peer review, the number of current centers will not increase under the President's request;

To fund the existing competing renewal centers at the peer-reviewed approved level would require an additional $11.6 million; $8.6 million would restore ongoing cancer center awards that previously have been reduced; and $5.0 million is the projected requirement to support five new competing centers. These components total $25.2 million over the President's request for $93.2 million, for a total of $118.4 million.

I appreciate your support of the Cancer Centers Program. Please let me know if I can provide additional information.

Sincerely,

VINCENT T. DEVITA, JR., M.D.,
Director, National Cancer Institute.

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC, July 14, 1987.

VINCENT DEVITA, M.D.,
Director,
National Cancer Institute,
Bethesda, MD.

DEAR DR. DEVITA: As you know, I have been deeply concerned about the low level of funding for cancer centers for the past several years.

In the Senate Appropriations Bill report for the last several years, the Appropriations Committee has called for full funding at peer reviewed approved levels for all cancer centers, including new grant applications and renewal grant applications.

The Appropriations Committee this year heard from the Association of American Cancer Institutes (please find Dr. Potter's testimony attached) which testimony was supported by witnesses representing the American Society of Clinical Oncology and the National Coalition for Cancer Research which indicated their very grave concern about the small levels of increases given for cancer center funding over the past five years.

I intend to attempt to increase appropriations levels for cancer centers, but in order to do so in an appropriate fashion I will need the following information from you:

How much additional funding in Fiscal Year 1988 would be required in the cancer centers funding line to obtain full funding at peer reviewed levels for both new and renewal grants?

I need this information not only in numerical form but additionally would appreciate any explanatory material you could provide as to the serious nature of the underfunding in recent years, and any particular points that you would like to make about the funding that would be required. I would like as much information as possible so that my ac-

tions will be totally in accord with the appropriate operation of the cancer centers program at the NCI—in my desire to increase funding and provide the appropriate base for this activity, I do not intend in any way to disrupt any aspect of this program at the Institute.

I would appreciate your answer to this question just as rapidly as possible because it is likely that very soon the Appropriations Committee will be acting on this bill.

Thank you for your attention to this matter.

Sincerely,

HOWELL HEFLIN.

Mr. CRANSTON. Mr. President, I had intended to propose an amendment with my distinguished colleague from California [Mr. WILSON] that would have earmarked $12 million out of the total account for the Health Resources and Services Administration for the renovation or construction of a regional demonstration nursing home for AIDS patients in the geographic area with the highest per capita ratio of persons with AIDS.

Mr. President, I applaud the chairman [Mr. CHILES] and ranking minority member [Mr. WEICKER] of the Labor-HHS Subcommittee for their superb efforts on AIDS in this appropriations bill. Nearly $950 million has been included for various education, research, health services, and other public health activities concerning AIDS. This is nearly double the amount appropriated in fiscal year 1987. The Appropriations Committee has once again demonstrated its commitment to providing the necessary resources to combat this horrible epidemic.

H.R. 3058 includes $1.64 billion for the Health Resources and Services Administration. Of that amount, $4 million is earmarked for renovation or construction of nonacute care intermediate and long-term facilities for AIDS patients. The committee report specifies that this funding is for a limited number of renovation and construction grants for outpatient AIDS clinics under the authority of section 1610(b) of the Public Health Service Act. I would note that the House included $10 million for that purpose.

In a similar way, our amendment would have been directed at helping to provide nursing home care to AIDS patients as an alternative to hospitalization. The amendment would have earmarked $12 million for the purpose of renovating a long-term care facility for AIDS care.

Mr. President, during debate on the Department of Defense authorization bill, S. 1174, my colleague from California [Mr. WILSON] and I proposed an amendment to transfer the former public health hospital located in the Presidio of San Francisco from the Department of the Army to the county of San Francisco for use as a regional AIDS facility. It passed the Senate overwhelmingly by a vote of 75 to 23.

This facility, as many of my colleagues know, would provide needed subacute or nursing home care to people with AIDS or severe ARC that is virtually unavailable anywhere in the San Francisco Bay area. Our amendment would have been designed to help finance some of the renovation and startup costs of the facility once the transfer is effected.

Mr. President during debate of the amendment to the DOD bill, I described at length the need for skilled nursing care for people with AIDS and, in particular, the need for that type of care in San Francisco. Those remarks begin on page S 12981 of the CONGRESSIONAL RECORD for September 29.

To summarize, nursing home or subacute care is one of the major gaps in the continuum care for people with AIDS. People without access to such care either stay in the hospital when they do not need it, receive inadequate care at home, or, most tragically, are forced onto the street.

Even in San Francisco, which has developed one of the best models to care for AIDS patients, nursing home care is still lacking. The facility at the Presidio is well-suited for providing subacute care and could serve as a regional training and care center for people with AIDS throughout northern California. Unfortunately, San Francisco, which has spent a tremendous amount of resources to care for AIDS patients, cannot afford the expenses associated with renovating and converting the facility into a nursing home.

I had previously contacted the chairman and ranking minority member to urge that they include funding for this project. I ask unanimous consent that a copy of my September 10 letter be inserted in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CRANSTON. Mr. President, the Senate spoke overwhelmingly in support of this subacute-care facility for AIDS. In order to make that facility a reality, funding is needed to help renovate the hospital. Our amendment would have helped to ensure that nursing home care would be available to people with AIDS and severe ARC in San Francisco and throughout the region.

Thus, I would like to clarify with the distinguished chairman whether it is his understanding that the report language is not intended to exclude consideration of facilities other than outpatient facilities and that the San Francisco facility would be a good candidate for a renovation grant under section 1610(b).

Mr. CHILES. Yes, I would like to assure the Senator from California that the hospital he described is the type of facility this funding is designed for.

Mr. CRANSTON. I thank the distinguished Senator from Florida and urge him to concur with the House in appropriating $10 million for renovating facilities for AIDS treatment.

Mr. CHILES. I appreciate the Senator's concern and assure him that I will do my best to work toward that goal.

(EXHIBIT 1)

U.S. SENATE,
Washington, DC, September 10, 1987.

Hon. LAWTON CHILES, *Chairman,*
Hon. LOWELL WEICKER,
Ranking Minority Member, Subcommittee on Labor, HHS, Education, and Related Agencies, Washington, DC.

DEAR LAWTON AND LOWELL: I am writing regarding your subcommittee's consideration of urgent funding needs for AIDS research, education, and other public health activities during your upcoming markup of the FY 1988 Labor, Health and Human Services, Education, and Related Agencies Appropriations Act. Your subcommittee has consistently been strongly supportive of providing all necessary resources to combat AIDS, and I would urge that you continue that outstanding record of concern and action regarding AIDS.

As you know, the House-passed bill includes $945 million for AIDS activities, not including FDA funding for AIDS activities. This figure is consistent with the amount included in the FY 1988 budget resolution and represents, I believe, the minimum level needed in fiscal year 1988. There are numerous bills pending, including S. 1220, the proposed "AIDS Research and Information Act of 1987" and S. 1575, the proposed "AIDS Federal Policy Act of 1987", which would in total authorize FY 1988 appropriations of nearly $1 billion for AIDS education, prevention, counseling, and testing efforts. Funding for research efforts would bring that total to close to $1.5 billion.

Since these bills will not likely be enacted until after the start of fiscal year 1988, the full appropriation will not be necessary. Nevertheless, I believe that it is critical to provide sufficient flexibility in this year's appropriation in order to enable these efforts to be undertaken as expeditiously as possible.

Thus, I urge you to include at least $1.1 billion for AIDS programs in FY 1988.

There are two specific AIDS issues on which I would greatly appreciate your assistance—both relating to the development of nursing home and other subacute care programs for persons with AIDS or AIDS-related complex (ARC).

As you know, the availability of appropriate care and treatment for people with AIDS or ARC varies widely across the country. With very few exceptions, care and treatment programs for AIDS and ARC are at best a patchwork of hospital, home, and community-based services. At worst, they are nonexistent. In most places, they are simply inadequate.

Much effort is being directed toward developing home care for people with AIDS. It is often more appropriate and compassionate for the individual and far less expensive than hospitalization. However, a pressing need also exists for the development of nursing-home-care models. Home and community-based care cannot always provide the needed level of attention or medical

services that is sometimes required by people with AIDS or severe ARC who do not need hospitalization, but for whom family and community support services are not enough.

Many individuals with AIDS and ARC, particularly those who suffer from neurological complications resulting from infection with the HIV, need 24-hour-a-day surveillance that cannot be provided in a noninstitutional setting. Other individuals may not need the high level of care found in a hospital, but may need more sophisticated medical care than can be provided for at home.

Patients with those needs typically are referred to nursing homes. Unfortunately, there is a paucity of skilled nursing or subacute care available throughout the country for individuals with AIDS. Although a very small number of nursing homes have agreed to take AIDS patients, most refuse to do so. This gap in the continuum of care for AIDS patients means that more patients stay in hospitals when they do not need to or that they simply do not receive needed medical and social services.

Even in San Francisco, which has served as a model for providing a coordinated network of community medical and social services to people with AIDS, very little nursing home-care is available.

Dr. David Werdegar, Director of Public Health in San Francisco, estimates that at least 7.5 percent of AIDS patients need skilled nursing care at any one time. This means that by the end of this year 258 people with AIDS or severe ARC in San Francisco alone will be in need of skilled nursing care. That number will surpass 500 in 1991. And that estimate does not take into account the impact of AZT or other very costly drugs that may be developed to prolong the life of AIDS patients.

Currently, patients who require skilled nursing care in San Francisco are placed in a variety of settings, most of which are inappropriate. For instance, many patients continue to receive care in acute-care settings, because they need a certain amount of medical assistance that cannot be provided for in the community. San Francisco estimates that approximately 12 to 13 percent of the AIDS/ARC patients at San Francisco General at any one time are in that situation.

Many more AIDS and ARC patients are discharged from hospitals to their homes, even though neurological complications resulting from the HIV infection or drug addiction make adequate care at home or in a community residential setting difficult or impossible. Most tragic and disturbing are the cases of those who are discharged with no home to go to and who, with their tragic vulnerability to life-threatening diseases, are then forced into homelessness.

The City of San Francisco is trying to address this problem. Efforts are underway to convert to a skilled nursing facility the former Public Health Service hospital located at the Presidio that is currently being used by the Army as a language school. This hospital, with a capacity for 350 beds, would be well suited for use as a regional skilled nursing and training facility. I am pursuing this issue with Sam Nunn, Chairman of the Armed Services Committee, to bring about a transfer to the City of San Francisco and am hopeful that we can resolve that issue soon.

The facility is generally in good condition because the Army has kept it ready for health-care use in the event of an emergency. However, some renovations are needed to transform it into a subacute-care facility for people with AIDS.

The City of San Francisco estimates that approximately $15 million would be needed for repairs, conversion, and start-up costs. I've attached a breakdown of those costs provided to me by Dr. Werdegar.

The Secretary of Health and Human Services is authorized under section 1610(b)(1)(B) of the Public Health Service Act (42 U.S.C. 300r(b)(1)(B)) to "make grants to public and nonprofit private entities for projects for the conversion of existing facilities into . . . facilities for long-term care" to provide services for medically underserved populations. Clearly, the proposed grant to the City of San Francisco would meet these criteria. Such a grant may be used to cover up to 80 percent of the cost of the project.

I'm sure you are aware that San Francisco has the highest number of AIDS and ARC patients per capita of any U.S. city. It has responded compassionately and effectively to the epidemic through the development of an extensive network of home and community-based care as well as by providing first-rate hospital care. Consequently, people with AIDS and ARC migrate to San Francisco from throughout the country.

San Francisco has borne more than its share of the burden. The City has allocated $18 million in its 1987-88 budget for AIDS—5 percent of the City's entire health fund. It has spent more than $50 million on AIDS since 1982—more than any other municipality—and cannot afford the costs of renovating the old PHS hospital. Since this facility would serve as a regional resource, I believe that the federal government should assist the City in making the necessary renovations.

Thus, I urge you to include $12 million for this purpose in your subcommittee's FY 1988 appropriations recommendations.

Also, with further regard to the growing unmet need for subacute care for AIDS and ARC patients in this country, I would urge you to include additional funding for the conduct of demonstration projects to provide subacute care for persons with AIDS or ARC.

When S. 1220, the Proposed "AIDS Research and Information Act of 1987" is considered by the full Senate, I intend to offer an amendment, which I submitted on August 7 as Amendment No. 672, to establish a 4-year (FYs 1988 through 1991) program of these demonstration nursing homes for people with AIDS or ARC. This program would test the concept of making this type of care available in order to allow more patients to leave the hospital and still receive adequate care. It would also provide for assessing the costs of subacute care for persons with AIDS or ARC and the availability and adequacy of nursing home care rates and other sources of income to cover the costs of providing nursing home care to persons with AIDS, who often have very serious complications.

These facilities would also serve as a training ground for nurses, mental health counselors, physicians, and other health-care professionals and paraprofessionals who provide care to people with AIDS. Finally, the amendment would provide for evaluating whether it is more appropriate to establish specialized AIDS centers or units or to provide AIDS patients with care in general community nursing homes.

As I noted earlier, at present, few nursing homes will admit AIDS patients. In many cases, nursing home staffs are not appropriately trained to care for people with AIDS. Other nursing homes refuse AIDS patients because the level of reimbursement under Medicaid is too low. Sadly, it appears that still other nursing homes are denying admittance to AIDS patients out of fear—fear of contagion and fear that their other patients would leave.

At the same time that we try to overcome these barriers, nursing facilities established under my amendment would help provide needed training to health-care workers, research on the long-term aspects of AIDS, and, most importantly, needed and appropriate services to people with AIDS.

Under the proposed amendment, the FY 1988 appropriation of $10 million—for which I urge your support—would be authorized for the establishment and conduct of three demonstration projects. These projects would involve hundreds of AIDS patients and health-care workers. I've enclosed for your information a copy of the amendment and my August 7 statement on it. I have discussed the amendment with the floor managers of S. 1220, Ted Kennedy and Orrin Hatch, and believe they are supportive of it.

Lawton and Lowell, I know that you will respond this year, as you have responded every year, in support of providing the necessary resources to combat AIDS. As we provide funding for research and prevention efforts, we must also begin to find ways to ensure that all AIDS and ARC patients have access to appropriate and humane health care. Increasing the availability and adequacy of subacute care would be a major step in that direction.

Thank you for your consideration of this request. I look forward to hearing from you on this issue at your earliest convenience.

With warm regards,

Cordially,

ALAN CRANSTON.

Mr. MOYNIHAN. Mr. President, the Senator from Pennsylvania and I would like to engage the distinguished chairman of the subcommittee in a colloquy regarding State employment service operations.

The House has passed a $755.2 million appropriation for State employment service operations. This is the same amount that was provided in fiscal year 1987. I would add that we were required to provide supplemental appropriations for this past fiscal year when it became clear that local unemployment insurance offices were going to close, and experienced employees lost, without further support. The Senate bill, however, provides a $55.2 million reduction from last year's level, raising the likelihood, once again, of employment service office closings and a loss of over 225 jobs in New York State.

A consensus is emerging in Congress that education and training are essential in moving the unemployed from dependence to independence. That move will be extremely difficult to make if programs cannot be properly administered. I urge the Senator from Florida to accept the House numbers for employment service operations in committee.

Mr. HEINZ. The Senator from New York is entirely correct. Last year we faced a backlog in the Targeted Jobs Tax Credit Program of over 1 million cases. Although the bill before us provides funds to administer those cases, the cut in funding for the coming fiscal year means that the personnel who actually handle those cases will be bumped out of their jobs by more senior personnel as employees are laid off.

Second, my State of Pennsylvania has recently conducted a series of hearings on employment service operations. Short staffing and low funding of local job service offices has caused tremendous backlogs in TAA, UI, and VJTA requests. Often cases which are incorrectly decided must be appealed at tremendous cost both to the applicant and to the Government. We can prevent this trend from continuing if we provide the House-approved levels of funding for the employment service.

Mr. CHILES. Mr. President, I thank my colleagues for bringing their concerns forward. I certainly value effective administration of employment service programs, and would like to assist my friends in conference. I know the Senators appreciate the outlay ceilings under which this appropriation must operate.

Mr. MOYNIHAN. Mr. President, the Senator from Florida deserves recognition for the work he has done on behalf of employment programs, and I appreciate his assistance with this matter.

Mr. HEINZ. I am very grateful for Senator CHILES' consideration of our concerns, and we look forward to working with him on this issue as the bill goes to conference.

FACILITY FOR AIDS RESEARCH IN SAN ANTONIO

Mr. BENTSEN. As my colleague from Florida knows, the pending legislation includes $10 million for the establishment of five multidisciplinary AIDS research centers. I would like to bring to the attention of the Senate, the unique AIDS research capabilities in place in San Antonio, TX. I know that my colleague from Florida is painfully aware of the tremendous physical, emotional, and societal costs that AIDS has brought to the Nation. Texas has not, by any means been spared. As a matter of fact, the Committee on Appropriations recognized Texas as one of the five States with the highest proportion of AIDS cases. Simultaneously, San Antonio has a comprehensive multidisciplinary research capability to combat and potentially conquer this dreadful disease.

Mr. CHILES. Would my able colleague from Texas tell the Senate more about the San Antonio research capabilities.

Mr. BENTSEN. San Antonio has been actively involved in AIDS research for some time. In particular, we have active efforts in the following areas already in progress.

First, accelerated basic AIDS research with emphasis on understanding the immunobiology and pathophysiology of the HIV virus and developing effective cures and a successful vaccine;

Second, an extensive clinical research program to enhance the development of simple tests, advanced treatment protocols and the evaluation of antiviral and other HIV related infections and malignancies;

Third, one of the largest colonies of nonhuman primates for testing, developing and certifying potential AIDS treatments and vaccines;

Fourth, tracking the progression of the disease from discovery through post-morbidity via our access to a large Air Force-wide AIDS referral, evaluation, and treatment program conducted at the Wilford Hall Medical Center; and

Fifth, an education and prevention program oriented toward a high-risk, low-prevalence minority group.

In a number of these areas our research has already been recognized by institutions across the United States and we are working on collaborative efforts with them, including Harvard University. Pulling together these separate, though complimentary, efforts in an AIDS research center would speed the progress toward development of treatments, cures and vaccines and clearly demonstrate our leadership in the "war against AIDS."

Given the unique capabilities and resources in San Antonio, I would urge the committee to support funding of a multidisciplinary AIDS research center in that city. I believe it would greatly further this worthwhile program.

Mr. CHILES. I agree with my colleague from Texas that such research should be welcomed and supported by the National Institutes of Health. The importance of AIDS research cannot be stressed enough, and this research group seems particularly qualified to do extensive work, especially with Hispanic education and primate models. I support their efforts and urge favorable consideration and funding of the San Antonio program.

ADEQUATE FUNDING FOR LATCHKEY CHILDREN

Mr. RIEGLE. Mr. President, I had intended to offer an amendment today which would have added $2.5 million to the Dependent Care Grant Program. This would have brought the level of funding for the program in fiscal year 1988 to $10 million, the same funding which has been approved by the House Representatives.

This program, which was adopted by Congress in 1984, has proven an effective means of meeting the crying need for dependent care in this country. Two kinds of services have been improved by the program. Funds have been made available for before and after school child care programs for so-called latchkey children; and funds have been made available for dependent care resource and referral programs.

This program is only a small step toward resolving an enormous unmet need: It has been estimated that as many as 8 million children are left alone each day before and after school. Many are faced with considerable physical danger and emotional distress.

Although the program is currently authorized at $20 million per year, Congress has never appropriated more than $5 million. The Senate Appropriations Subcommittee on Labor, Health and Human Services has moved in the right direction by recommending $7.5 million for the program in fiscal year 1988, and I commend the able chairman for his leadership. I would like to encourage him, however, to agree to match the House's appropriation of $10 million in fiscal year 1988 for this worthwhile program.

Mr. CHILES. I would like to thank the Senator from Michigan for his comments. He has been a leader in promoting adequate child and dependent care in the Senate, and I appreciate his efforts on behalf of the Dependent Care Grant Program. I share the Senator from Michigan's view that this program has effectively provided needed services and I support the program. The Appropriations Committee has responded to his concerns by recommending $2.5 million in increased funding for the program in fiscal year 1988. I am aware we have a difference with the House. Since the Senator is willing not to offer his amendment at this time, I can give my assurances that I will work with the House conferees to achieve a level of spending for this program that will respond to the Senator's concerns.

Mr. RIEGLE. I appreciate the concern of the distinguished chairman of the Subcommittee on Labor, Health and Human Services. His willingness to work toward helping this small but important program demonstrates his continuing commitment to providing care for this Nation's children, elderly and disabled.

Mr. METZENBAUM. Senator CHILES, I note that the committee has reported out an appropriation of $300 million for title III of the Job Training Partnership Act. The displacement of workers by imports, technology change, and other economic developments threatens the livelihood of millions of Americans. I believe that the growing number of dislocated workers in this country—over 11 million in this decade—is a national crisis. There is agreement between Congress and the Reagan administration that we must do more—much more—to assist dislo-

cated workers in finding jobs in today's changing economy. We cannot hope to remain competitive with Japan or other industrialized countries if these dedicated and experienced workers are allowed to drift away from the forefront of the American economy.

In the Senate version of the trade bill, we authorized $980 million to provide readjustment assistance and retraining for dislocated workers. The House of Representatives has authorized the same amount, and this also is the exact amount sought by the Reagan administration in its bill. In short, there is widespread agreement that this substantial investment—over four times the amount appropriated under title III for fiscal year 1987—is essential for the future of our work force and our economy.

I understand the committee's conclusion that a more modest increase in appropriated funds may be adequate to handle the startup costs associated with this greatly expanded program. But I want to be sure that a lesser initial appropriation carries no implication of settling for less than the full amount authorized once the program has started up. In particular, I want to be sure that we can expect the full amount of $980 million will be recommended by the committee in the second year of funding. Is that the understanding of the Senator from Florida?

Mr. CHILES. I thank the Senator from Ohio, and I appreciate his leadership with regard to the dislocated worker issue. I strongly support this expanded Federal effort, and I will do all that I can to insure that it is fully funded in the future.

Mr. METZENBAUM. I thank the Senator from Florida. With that understanding, I am prepared to support the current appropriated amount.

FUNDING FOR RESEARCH ON ALZHEIMER'S DISEASE

Mr. GRASSLEY. Mr. President, I would like Senator CHILES to know that I appreciate the strong support for research on Alzheimer's disease shown in the committee bill. I would also like to take a moment to clarify the intentions of the committee about Alzheimer's disease activities authorized last year by Public Law 99-660.

The bill includes $2.3 million for funding for two more National Institute on Aging centers for research on Alzheimer's disease, and to bring the funding of the existing NIA centers to the originally envisioned funding level for each of $1 million. These centers are doing a magnificent job, and hold out the promise of an eventual breakthrough on Alzheimer's disease.

Mr. CHILES. Support for research on Alzheimer's disease has been one of my highest priorities and the committee has tried, within the constraints created by limited resources, to keep our research effort on Alzheimer's disease moving forward. I have very high regard for the work being done by the National Institute on Aging's centers on Alzheimer's disease and we have tried to provide those centers with the resources they need to sustain the excellent progress they are making.

Mr. GRASSLEY. I notice also that the committee has included funding for some of the activities on Alzheimer's disease authorized by Public Law 99-660, which was signed into law late last year, and that the committee has included instructions to the relevant agencies with respect to provisions of Public Law 99-660 in those cases where funds were not provided. I have a special interest in those provisions because they were primarily the work of Senator METZENBAUM and myself in the Senate and Representative SNOWE in the House of Representatives.

The provisions of Public Law 99-660 for which funds have been provided include: $5 million for NIA for grants to senior scientists who have already made outstanding contributions to the understanding of Alzheimer's disease, and $2 million for the National Institute of Mental Health for service delivery research on Alzheimer's disease.

The committee report notes also that the "steps have been taken to establish an Alzheimer's disease education center (in NIA) in accordance with the omnibus health bill (Public Law 99-660)" and that "the committee expects other activities as authorized by Public Law 99-660 to be initiated within available funds."

Do these "other activities" include the clearinghouse function authorized by sections 951 and 952 in the law, for which $300,000 was authorized?

Mr. CHILES. Yes, they do.

Mr. GRASSLEY. Do they include the advisory committee on Alzheimer's disease, composed of outstanding individuals from the private sector, for which $100,000 was authorized?

Mr. CHILES. Yes, they do?

Mr. GRASSLEY. Thank you very much for that clarification. I know that the families of all those suffering from Alzheimer's disease appreciate the high priority you have placed on making progress against this disease.

ACTION AGENCY SUPPORT BUDGET

Mr. GRASSLEY. Mr. President, I would like to bring to the attention of the distinguished chairman of the Subcommittee on Labor-HHS-Education and Related Agencies a problem in the agency support budget for ACTION.

According to the agency, the Senate mark for agency support will only support a level of 430 employees, yet it currently has on board 461 employees. The current staffing level is 50 positions fewer than the agency's authorized level. Under the Senate mark, the agency will be forced to conduct a reduction-in-force of 31 additional positions. The RIF level would be 81 positions below the authorized level; and 31 positions below the level the agency needs to perform its functions.

The House mark for agency support is $1 million higher than the Senate which would eliminate the projected $1 million deficit and the need for a reduction-in-force. The agency could maintain a work force of 450 to 460 and any necessary reduction could be achieved through attrition.

ACTION's programs over recent years have been increased by 27 percent and this year's bill increases programs by another $19 million. I am concerned that ACTION will be unable to manage its ever-increasing program budget if they are faced with a RIF of 31 additional positions and the inability to fill critical vacancies.

I would like to ask the distinguished chair of the Subcommittee if this serious personnel management problem can be resolved in conference with the House?

Mr. CHILES. I thank the Senator from Iowa for bringing the issue to the attention of the Senate.

The bill provides the amount requested by the ACTION agency for its regular program support budget. This amount is the authorized ceiling for the agency. ACTION will also receive an additional $187,000 for salaries and expenses to support its drug abuse programs.

The ACTION Director recently negotiated a new staffing plan for the agency at the amount we have provided. This plan will not require a reduction-in-force. In fact, the plan identifies a total of 22 vacancies in the State and regional offices and we have instructed the Director to fill those vacancies as her highest priority.

The Director has written to the ACTION staff and said that this new plan "is being accomplished with minimal disruption to our personnel; not one employee is being separated or furloughed from the agency."

The budget materials submitted by ACTION to the Appropriations Committee show that the agency can fund a total of 450 employees in 1988 under the amount provided. The first time that the committee learned in writing that the Director felt that a reduction-in-force would be necessary was in a memo distributed by agency staff to committee members that did not bear the agency letterhead and suggested that we take funds away from companionship services for the homebound elderly to fund the Agency support budget at a level in excess of the authorized ceiling and in excess of the President's request. I have since met with the Director and she has made her concerns known to me. Based on all these materials, it is not clear to me that a reduction-in-force will be neces-

sary. But, I can assure my friend from Iowa that I will continue to look into this matter and give every consideration to the House position on this conference item.

Mr. GRASSLEY. I thank the Chairman for his attention to this issue and would urge him to accept the House position for ACTION's agency support budget. I would point out that ACTION is one of the few agencies with offices in every State. The current ACTION Director has a long-range goal of achieving a better ratio between headquarters and field personnel levels. However, if a RIF of 31 positions becomes necessary, any State could be at risk of losing badly needed staff in its ACTION State Office.

Mr. MELCHER. Mr. President, today I intended to offer an amendment to the Labor, Health and Human Services, and Education appropriations bill, H.R. 3058, to provide that Medicare beneficiaries have a right to part B Medicare administrative law judge [ALJ] hearings to the same extent as Social Security beneficiaries have.

Social Security regulations provide for an in person hearing before an ALJ with reasonable accessibility for the beneficiary throughout the United States and its territories. As a general rule, these hearings are held within 75 miles of the beneficiary's place of residence. If the hearing is at a greater distance, the Social Security Administration is to provide travel reimbursement.

Given the recent Health Care Financing Administration [HCFA] proposal to establish a separate administrative law judge corps within HCFA and to have "telephone" rather than "face-to-face" ALJ hearings, I thought it would be in the best interest of Medicare beneficiaries to have their appeal rights preserved at least to the same extent as Social Security beneficiaries. Supplemental Security Income [SSI] beneficiaries already have the same hearing rights as Social Security beneficiaries. Although HCFA has recently retreated somewhat from its proposal and currently states that the telephone hearings will be "optional and voluntary" it is not clear what is meant by "voluntary."

Congress should let HCFA know that Medicare beneficiaries must be able to exercise their due process rights before an administrative law judge.

My amendment had the support of the following organizations within the leadership council of aging organizations, Jack Ossofsky, Chairperson:

American Association of Homes for the Aging.
American Association of Retired Persons.
AFL-CIO Department of Occupational Safety, Health and Social Security.
AFSCME Retiree Program.
American Society on Aging.
Gray Panthers.
National Association of Retired Federal Employees.
National Caucus and Center on Black Aged, Inc.
National Council of Senior Citizens.
National Council on the Aging, Inc.
National Senior Citizens Law Center.
Older Women's League.
United Auto Workers/Retired Members Department.
Villers Advocacy Associates.

However, I value the judgment of my distinguished colleague from Texas who has expressed to me his desire to have the Finance Committee give this situation further consideration. Thus, I am going to withhold offering my amendment with the understanding that the Committee on Finance will act on this matter as soon as possible.

Mr. SASSER. Mr. President, I wish to commend my distinguished colleague, Senator MELCHER, for his remarks on the Medicare appeals process. It has been my intention to cosponsor Senator MELCHER's proposed amendment on this subject.

It is my intention to make a more detailed statement on this floor regarding the changes to the Medicare appeals process being considered by the Health Care Finance Administration, or HCFA. At this time, let me just express my concern that HCFA's proposal seems to run contrary to statutory amendments Congress adopted only last year to expand, not to constrict, the appeal rights now enjoyed by our Nation's elderly.

Under a provision in the Medicare law which cross-references the Social Security statute and regulations, those persons appealing denial of benefits under Medicare part A have been accorded a full, in-person hearing before Social Security administrative law judges. In last year's budget reconciliation act, we in the Congress declared that Medicare Part B. appeals over $500 should henceforth receive the same hearing procedure as part A claims. In doing so we also amended the part of the statute providing insurance carrier hearings for Part B claims, to state that in the future it would apply only to claims under $500.

HCFA's proposals for a separate Medicare ALJ Corps, which would hear a majority of appeals over the telephone, would in my judgment defeat Congress' purpose. I submit that we meant not only to keep the present, face-to-face hearing process but to extend it to part B claims over the $500 amount. I am also concerned by HCFA's interpretation that the statute still allows them to require carrier hearings in such part B cases. I think last year's amendment made it rather explicit that such was not the case.

We need to adopt legislation clarifying the intent of Congress with regard to the Medicare appeals process, and the language Senator MELCHER had planned to introduce would take us in that direction. However, I too appreciate the feeling of our distinguished colleague Senator BENTSEN that the Finance Committee, which oversaw the amendments in last year's reconciliation bill, is the proper body to take a closer look at the situation. I look forward to cooperating with committee members to ensure that the agency in question is under no misunderstanding as to the proper application of the statute.

Mr. BENTSEN. I am happy that the distinguished Senators from Montana and Tennessee have brought this matter to the attention of the entire Senate.

I, also, am very concerned that the Medicare beneficiaries in this country not be denied the opportunity to have a face-to-face hearing before an administrative law judge on appeal in those cases where a hearing is provided by law and I thank the Senators from Montana and Tennessee for making us aware of the problems beneficiaries may be experiencing under Medicare part B.

However, I believe it is appropriate that the Senate Finance Committee take a closer look at this matter and in order to ensure that there will not be any misunderstanding whatsoever with congressional intent, we may decide to make some additional appropriate changes in the law.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I know of no further amendments, and therefore we are ready to go to the third reading.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The committee amendment, as amended, was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. Is there further debate?

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

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I know there are a lot of people who want to go home. There are not too many here right now. I am wondering if we could vitiate the yeas and nays and have a voice vote?

Mr. WEICKER. The senior Senator from Mississippi just asked for the yeas and nays.

Mr. HARKIN. I asked unanimous consent to vitiate the yeas and nays for a voice vote.

The PRESIDING OFFICER. Is there unanimous consent?

Mr. WEICKER. No.

The PRESIDING OFFICER. Objection is heard.

The yeas and nays have been ordered. Is there further debate?

The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], and the Senator from New Hampshire [Mr. RUDMAN], are necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM], is absent due to a death in the family.

The PRESIDING OFFICER. (Mr. SANFORD). Are there any other Senators desiring to vote?

The result was announced—yeas 81, nays 15, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—81

Adams	Ford	Moynihan
Bentsen	Fowler	Murkowski
Biden	Glenn	Nunn
Bingaman	Graham	Packwood
Boren	Harkin	Pell
Boschwitz	Hatch	Pressler
Bradley	Hatfield	Pryor
Breaux	Hecht	Quayle
Bumpers	Heflin	Reid
Burdick	Heinz	Riegle
Byrd	Hollings	Rockefeller
Chafee	Inouye	Rudman
Chiles	Johnston	Sanford
Cochran	Karnes	Sarbanes
Cohen	Kennedy	Sasser
Cranston	Kerry	Shelby
D'Amato	Lautenberg	Simpson
Danforth	Leahy	Specter
Daschle	Levin	Stafford
DeConcini	Lugar	Stennis
Dixon	Matsunaga	Stevens
Dodd	McClure	Thurmond
Dole	McConnell	Trible
Domenici	Melcher	Warner
Durenberger	Metzenbaum	Weicker
Evans	Mikulski	Wilson
Exon	Mitchell	Wirth

NAYS—15

Armstrong	Grassley	Nickles
Baucus	Helms	Proxmire
Conrad	Humphrey	Roth
Garn	Kasten	Symms
Gramm	McCain	Wallop

NOT VOTING—4

Bond	Kassebaum
Gore	Simon

So the bill (H.R. 3058), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I move that the Senate insist on its amendments to the bill, H.R. 3058 and request a conference with the House, and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer [Mr. SANFORD] appointed Mr. CHILES, Mr. BYRD, Mr. PROXMIRE, Mr. HOLLINGS, Mr. BURDICK, Mr. INOUYE, Mr. HARKIN, Mr. BUMPERS, Mr. STENNIS, Mr. WEICKER, Mr. HATFIELD, Mr. STEVENS, Mr. RUDMAN, Mr. SPECTER, Mr. MCCLURE, and Mr. DOMENICI conferees on the part of the Senate.

SENATOR RUDMAN'S VOTE ON THE LABOR-HHS APPROPRIATION BILL

Mr. DOLE. Mr. President, I meant to indicate when the vote was announced on the Labor-HHS appropriations bill, that the distinguished Senator from New Hampshire is not recorded. I think he was in the well. My understanding is that he believes he voted. He reported to his office that he voted aye. But I was unable to locate the Senator from New Hampshire.

I thank the majority leader for holding the vote for 15 minutes. We tried his home, and we tried his office. If in fact he did vote aye, I assume he can take that up with the majority leader tomorrow. But the RECORD indicates he did not vote. He is not recorded.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

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

Mr. HOLLINGS. I yield to the majority leader.

Mr. BYRD. I thank the distinguished Senator from South Carolina, Mr. HOLLINGS.

RESOLUTION CONGRATULATING COSTA RICAN PRESIDENT OSCAR ARIAS SANCHEZ ON BEING AWARDED THE 1987 NOBEL PEACE PRIZE

Mr. BYRD. Mr. President, I believe it is agreeable with Mr. DOLE—he is here—to have a vote on the concurrent resolution congratulating the Costa Rican President Oscar Arias on being awarded the 1987 Nobel Peace Prize at 9:15 tomorrow morning.

If there is no objection, I ask unanimous consent that the concurrent resolution which I submit on behalf of myself, and a number of other Senators, be placed on the calendar; that tomorrow morning at 5 minutes after 9, the Senate proceed to the consideration of the concurrent resolution; and that the vote occur at 9:15 with time in between to be equally divided between the two leaders or their designees.

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

ORDER FOR YEAS AND NAYS

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the adoption of the concurrent resolution.

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

Mr. BYRD. Mr. President, I ask for the yeas and nays on the adoption of the concurrent resolution.

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

The yeas and nays were ordered.

Mr. BYRD. Mr. President, the vote will occur tomorrow morning at 9:15 a.m. That will be a 30-minute rollcall vote.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

THE STATE-JUSTICE-COMMERCE APPROPRIATIONS BILL

Mr. HOLLINGS. Mr. President, I will limit my remarks because the hour is late. Both of the leaders are about to adjourn. But my request of the majority and minority leaders is to see if they can contact the White House and see whether or not we are engaged in an exercise in futility. I say that in all seriousness.

Right to the point: we in the Senate have been very conscientiously marking up the various appropriations bills, voting them out of committee, and passing on them on the floor.

The Senator from Texas is working very diligently; he and Senator PACKWOOD and Senator DOLE on reconciliation in the Finance Committee.

But what I feel is that the President himself, is looking forward to a sequester. While we conscientiously perform our job, he feels he is going to perform his job conscientiously by taking the sequester route.

If that is the case, we are all wasting our time trying to think up the revenues, the taxes, to try to conform to the budget resolution and the reconciliation bill and pass all the appropriations bills.

The President will veto the reconciliation bill on account of taxes. He says "over his dead body." With no revenues, you will have the sequester of 8.5 percent on the domestic programs, the sequester of 8.5 percent on defense. Military personnel will be protected. And about February or March we will get a supplemental request that the Persian Gulf navy is running out of gas or out of fuel and ammunition. And the President will say we need money for maintenance. Then as a Congress we will be confronted with just cutting the maintenance and operation or going through closures of various bases and we will vote all the money that was cut by the sequester and the President will have his defense, have his domestic cuts, and have no taxes.

This Senator does not mind foursquare coming out for the revenues to pay the bills. I think we should have full-court press on for a coast-to-coast

system of daycare centers to give every kid a head start, and a raise in teachers' pay to give our children a professional classroom teacher for a quality finish.

I believe we ought to be financing research. I believe we ought to be doing something in the inner cities. And I believe we ought to take care of this deficit, to take care of the debt, and to get down the interest costs. To do that, we need revenues.

I testified earlier this year for a value-added tax, exempting food, health care, and housing, and even then drawing in some $82 billion. That does not frighten me, because it is needed. It would be set up in a trust fund to eliminate the debt.

However, I am back to my main point with the majority leader and the minority leader: If we are not going to have any revenues—and I understand that the President does not even favor the $6 billion he recommended in the January budget—then we ought to accept that fact and stop this self flagellation and adjourn sine die on November 1.

Who is silly enough to put their names on all these taxes, to try and act responsibly, if the President is determined to take the sequester route?

I think the majority leader and the minority leader ought to contact the White House and find out what the score is, because there is no use playing games around here, if that is what the President feels ought to be done.

I do not think there is any rhyme or reason, because no one with vision has been able to persuade the President to sit down in a sort of summit meeting of give and take, of compromise.

I thought I was going to get the good government award when he signed Gramm-Rudman-Hollings, but he gave me the boot in the you know where. So I am not going to attend any more signings like that.

Mr. President, there is no question in my mind, the President is absolutely determined to take the sequester route.

I hope the leadership will contact the White House and ask if that is their intent, so we will be informed.

Mr. BYRD. Mr. President, the Senator raises a pertinent question. I would like to have the answer, too.

In the final analysis, I think we should stick to what we think is our responsibility and let the President, if he wants to go the irresponsible route, answer to that.

I thank the distinguished Senator from South Carolina.

Mr. HOLLINGS. The leader and the President clearly disagree on what is responsible.

President Reagan came to Washington to close down this Government. I happen to believe in government. I believe in these services and I believe in paying for these services.

So when you talk of responsible and irresponsible, he thinks he is being very, very responsible and finally winning some tremendous cuts in domestic programs. He knows he will have us over a barrel next spring on defense because when he comes back and asks for the fuel for the flying hours and streaming hours and operations and maintenance and lists a bunch of contracts that will have to either be canceled and money wasted, or the money appropriated and the job completed, you know and I know what the Congress is going to do.

So it is not just a question of responsible and irresponsible. It is a question of where we are headed. Does the President want a sequester? If so, I think we ought to be informed now.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I say I will do my best to find out. But I would not want to bet the ranch on it that I will find out, his ranch or our ranch. But in any event, I will make an inquiry if we can get anybody in the White House to give us any guidance on it. I assume the President will say it is up to Congress, and he will give a choice. They go the sequester route or find it somewhere else. If I have to guess, I would assume that might be the White House's position.

I will make the inquiry.

Mr. HOLLINGS. He said it is either the sequester route or some other route. You know, as a member of the Finance Committee, that the other route is revenues, and the President said he does not even approve the $6 billion he recommended in January in his budget. So that leaves only one route—sequester.

If that is the case, I think we ought to know it.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have listened with great interest to my wonderful colleague from South Carolina, and I want to compliment him for zeroing in on a problem that I think has faced us for some time. No one could articulate it better than my friend from South Carolina.

As philosophical friends I think in basic structures of Government, and members of the Budget Committee, which my friend from South Carolina headed at one juncture, we have stood shoulder to shoulder for responsibility in Government and to bring the necessary pressures to do something about the tremendous deficit, to do something about the skyrocketing national debt, in a responsible manner.

I happen to believe in those good proposals on which we marched together in the Budget Committee and on the floor of the U.S. Senate a few years ago when the deficit was only $70 billion, and now it is more than double that, during that time when the national debt was under $1 trillion and now, as we all know, we are up to $2.8 and before President Reagan leaves office you can bet your bottom dollar it is going to be over $3 trillion. That is quite a record of fiscal responsibility.

But I might be able to help the Senator from South Carolina on the question that he posed to the majority leader and the minority leader, and I thought it was an excellent one.

The frustration that the Senator from South Carolina feels, Mr. President, is not going to go away. I think that the majority leader knows that. I think that the minority leader knows that. And it is time the country knew it.

We are facing the greatest series of confrontations that anyone living today has ever seen between the executive and the legislative branch during the last year and a month or two of the Reagan administration.

How do I know that? Mr. President, I wish to help my friend from South Carolina, and I think that he and others understand the situation very well, but it has not been laid out. I know that because a few months ago I was invited to the White House for a gathering of all of us who voted to sustain the President's veto of the clean water bill. Everyone remember that? The clean water bill was approved in the area of $18 billion. The President vetoed it and suggested $12 billion.

I thought with the budget deficit that we faced the President was right and we could get by with $12 billion and come up with more money later, but as it turned out, Mr. President, strictly by accident and not design, the Senator from Nebraska was the only Democrat in either the House of Representatives or the U.S. Senate that so voted, and therefore I was invited to the White House with a small group of others, all Republicans, who voted as did the Senator from Nebraska. At that White House meeting, I heard talks and comments directed to the President of the United States along these lines:

> Mr. President, they are out to get you. That was the only reason that they overrode your veto of the clean water bill.

I do not believe that. I happen to believe that it was one of those situations when my colleagues, Democrats and Republicans alike—and that clean water bill was not all written by Democrats. It was written by an overwhelming number of Republicans and Democrats in the House of Representatives and Democrats and Republicans in this body. And that is the way it should be. We are not always going to agree. I suspect, although I do not know, that my friend from South Carolina may have voted to override that veto.

But at that meeting at the White House it was very clear to me that President Reagan was getting the suggestions—it was not suggestions, it was outright statements:

They are out to get you, Mr. President. What we must do is to have you veto everything that comes over from the Congress of the United States. You just veto everything, and we'll show 'em, we'll show 'em who is responsible for this terrible debt.

The assumption was, of course, Mr. President, if the President took a confrontational attitude, as he has on the Bork nomination, as he has on the attempts to rescue Gramm-Rudman-Hollings—and the evidence of lack of sincerity on the part of the President of the United States was just demonstrated by the remarks of one of the authors of that bill that I do not support, for good reasons in my view, and indicates the fact that he is not sincere.

I also happened to notice that there was a picture on the front page of a local daily the day after you were down there. I saw the President there smiling, as usual, and I saw my friend from South Carolina and I saw other friends of mine who were coauthors of that famous piece of legislation, or infamous, depending upon your point of view. And I saw the chairman of the Budget Committee, the Senator from Florida, was not there.

But I did notice that the ranking member of the Budget Committee was there in the picture of the signing ceremony. And I thought that was strange, because it was the ranking member of the Budget Committee, the distinguished Senator from New Mexico, who led the fight on the floor against the Gramm-Rudman fix, which had attached to it, as the Senator knows, the $2.8 trillion debt ceiling.

So I just want to be helpful to my friend from South Carolina and hope that the majority leader and the minority leader will check with the White Hosue. I think the obvious answer is that the President of the United States is now on a course to do exactly what the Senator from South Carolina fears. I also suggest to all others that this is not the last direct confrontation that we will have with the President. I think that the political strategy is very clear. I believe that it will show from the history between now and the leaving of office of President Reagan that we are going to see the greatest series of confrontations in the Nation's history, at a time when the Nation is in dire straits and we should be working together on a nonpartisan basis, not Democrats and Republicans and not so much concerned about the congressional and Presidential elections of next year, but what we are going to do as a previously elected President and Members of the Senate and Members of the House of Representatives to attack the problems, rather than to make political hay, which I can assure my friend from South Carolina I am convinced is the strategy at the White House.

There is something more important than even the other problems that we face. The last 2 days, those of us on the Armed Services Committee have been preparing for a tremendously difficult conference with the House of Representatives on the defense authorization bill that was just passed. You have no idea, Mr. President, of the difficult situations that we face. These are basically the figures. $302 billion authorized by the United States Senate; $289 billion, for 1 year, for the defense authorization, $289 billion, by the House of Representatives.

If we go to the sequester that I believe the President of the United States is going to force us to, it is $280 billion.

In addition to that, the White House is going to take the option, as I understand it, of exempting any cuts in the uniformed personnel. When we do that, as the Senator from South Carolina knows so very well, we really raise havoc with the other side of the budget, the outlays.

All I can say is that with all of what is going on here, with the concern that I have, Mr. President, that if the sequester takes place we will see a reduction of $1.3 billion in the Government's subsidy program at a time when many of the farmers of this country are in dire straits.

You know, strangely enough, there were those who said in the other body that when Gramm-Rudman-Hollings was passed it would never have any adverse effect on agriculture.

Mr. President, I simply say that if the majority leader and the minority leader are successful in bringing politics down and statemanship up in the White House of the United States, it will be a good day for America.

Mr. President, I yield the floor.

YOU MUST BE A STEADY ALLY

Mr. THURMOND. Mr. President, as a longtime member and strong supporter of the American Legion, I enjoy reading the American Legion magazine, the official publication of this fine organization.

I recently came across an interview the magazine conducted with the Washington representative of the Nicaraguan resistance, Ernesto Palazio. As a strong supporter of the efforts of the freedom fighters to establish democracy in Nicaragua, I commend this interview to the attention of my colleagues.

Mr. Palazio, an attorney who cofounded the Nicaraguan democratic movement in 1978, speaks of the vital security interests of the United States in Central America. He provides keen insight on Marxist-Leninist expansion in that region and on how the Sandinista government, through Soviet backing, seeks to destabilize and overturn other governments in that region. If we are to stop the further expansion of Soviet influence in this Hemisphere, we should carefully consider the points he has raised.

I ask unanimous consent that certain excerpts from the interview with Mr. Palazio appear in the CONGRESSIONAL RECORD following my remarks.

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

EXCERPTS FROM THE INTERVIEW WITH MR. PALAZIO

Q. Containment is often mentioned as a means of checking Marxist-Leninist expansion throughout Central America and this hemisphere. Do you agree?

A. Marxist-Leninist governments breed a militarized society. They must expand in order to survive and that's why containment is not effective in halting communist expansion.

Q. You said that if Americans were to see how steadfast the Soviets are as allies of the Sandinistas, then Americans might be persuaded to support the cause of the Democratic Resistance Forces. What did you mean by this?

A. What I meant was simple—nobody wants to join a loser. Everyone wants to join someone who has a chance of winning. Every day, Nicaraguans see tangible evidence of how the Soviets support the Sandinistas. They see the Soviet system being put into place—ration cards, abolition of a free press, state control, etc., and Soviet tanks and helicopters to keep that system in place against the will of the Nicaraguan people, and the constant stream of solidarity missions back and forth between Managua and Moscow. They see the Soviet-bloc countries giving thousands of scholarships to Nicaraguan children. They see attacks upon their churches that grow more frequent each year. They see a totalitarian system being established, which has no comparison with anything they have experienced before. When they see these and other things, they realize that the resistance will not be able to win by itself and they know that outside support is needed. But they ask themselves why they should die without hope, as so many did in the Hungarian Revolution in 1956, when no one came to their aid. I believe that what has been happening during the past seven years in Nicaragua—American support is there, then it isn't and then it's halfway—is the worst thing a superpower can do for itself, its allies and its enemies. The Nicaraguan people don't see the Americans supporting the resistance as solidly as they see the Soviets supporting the Sandinistas.

Q. Suppose the Contra movement, for whatever reason, fails. What happens then?

A. Marxist-Leninist power will have been consolidated in Nicaragua, and our defeat will send signals to the rest of Latin America that any leftist group can seize power there and get away with it. If our efforts fail, it may also show the world that the Soviets are better allies than Americans, or certainly more steadfast. The loss of American prestige would be tremendous—another Bay of Pigs only on a larger scale. I think the Sandinistas would feel extremely secure

in increasing their efforts to export communist revolution. They always have said their aims is to establish 100 Vietnams. In their view, the best way to preserve the Nicaraguan revolution is to take the war outside Nicaragua. That's what has happened with the insurgency in El Salvador (FMLN). If Nicaraguan freedom fighters do not prevail, the United States will have suffered a serious ideological and strategic setback because it will show that it cannot defeat communism in its own back yard, it will lay bare the Pacific region and west coast of America to Soviet intelligence flights such as those being conducted by Cuba on the east coast, and it will allow Nicaragua to service Soviet aims in the area.

Q. Will the crisis in Central America result in the commitment of U.S. troops?

A. The Nicaraguan people are willing to fight for their own country, to liberate their country, to establish democracy. We are willing to fight—to shed our own blood—we ask only that you give us the tools to win our common victory. I believe that if U.S. aid is cut off to the resistance, American troops will come a step closer to being deployed.

INF ARTICLE BY SENATOR PETE WILSON

Mr. WALLOP. Mr. President, I commend to my colleagues an excellent, balanced column by the Senator from California, Mr. WILSON, on the question of arms control and the impending new INF treaty. Mr. WILSON's thoughtful consideration of this topic should be read by all Senators since we likely will be faced with providing, or denying, our advice and consent to a United States-Soviet INF agreement in the near future.

Mr. President, the Senator from California establishes four points that this Senate would do well to remember in its deliberation on any new arms agreement. The fulfillment of these four points are an absolute minimum test for any new arms agreement.

Point No. 1 is: "Any new agreement should include specific enforcement provisions and safeguards against cheating." This sounds obvious, but it is a sad fact that no such provisions have ever been made part of strategic arms agreements.

Point No. 2 is: "Any new agreement should be verifiable by means that do not require us to suffer Soviet violations in silence." In the past, Mr. President, we have had too often to avoid protesting Soviet violations because of the fear that sensitive intelligence assets and methods might be compromised. Make no mistake about it, we pay a price when we do this. United States credibility in the eyes of our principal adversary is diminished every time we ignore Soviet violations.

Point No. 3 is: "Any agreement should itself be precise, clear and unambiguous." Mr. President, the ABM Treaty was lauded as a document of precision by the Nixon administration. It is so ambiguous and so full of loopholes that it only binds those who wish to be bound by it. The Carter administration proudly considered the SALT II Treaty as the most precise arms control agreement ever drafted. Yet when Senator Henry Jackson's Armed Services Committee got through with it, they found so many loopholes and ambiguities that it could not muster one vote in favor of the agreement. The Senate cannot let another ambiguous treaty pass through the advice and consent process. The Senator from California is right: "Ambiguities are no accidents." They are put there by the Soviets intentionally to disguise disagreement on sometimes fundamental issues.

Point No. 4 is: "Any new agreement should bring benefit that does not depend on any contingency other than performance of its own terms." Mr. President, every new arms control agreement that has been criticized for its fundamental flaws has been defended by the argument that the treaty is part of a process that will lead to better and better agreements.

There is no logic in the proposition that good agreements will follow from bad ones. Indeed, the logic is the other way. Every time the United States accepts a bad arms agreement it is indicating its willingness to the Soviet Union to continue détente at any strategic or political cost. In this Senator's judgment, Mr. President, a policy based on this logic is nothing less than appeasement.

I ask unanimous consent that the article from the Los Angeles Times by the Senator from California be printed in the RECORD.

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

[From the Los Angeles Times, Sept. 25, 1987]

INF: IGNORING HISTORY, OR MAKING IT?

(By Pete Wilson)

BEFORE ARMS RATIFICATION, SENATE NEEDS ASSURANCES

It now seems likely that the United States and the Soviet Union will sign the first arms agreement in more than nine years.

If the Senate ratifies this proposed treaty on intermediate-range nuclear forces, it will be the first signed and *ratified* arms-control agreement between the superpowers in more than 15 years.

Before they complete an agreement, U.S. negotiators should assure themselves—and the Senate—that they have not made the terrible error of ignoring history. In the case of agreements regarding nuclear weapons, we can ill afford to repeat the mistakes of the past.

If the negotiation and ratification of the proposed INF agreement (or any future arms-control proposals) are to succeed where past agreements have failed, those who negotiate for the United States, and those of us who must ratify, should be guided by fundamental principles.

Any new agreement should include specific enforcement provisions and safeguards against cheating.

History proves that declarations of intent are inadequate enforcement mechanisms. Although President Jimmy Carter warned the Soviets that their violation of SALT II by encryption of telemetry would cause the United States to withdraw from the accord altogether, the Soviets proceeded undeterred.

To be credible and effective in discouraging violations, a treaty must contain clear penalties for cheating.

Enforcement provisions must be included explicitly in the text of a treaty, placed there either by negotiation or by unilateral reservations attached to the instrument of ratification by the Senate. It is essential that the Soviets clearly understand the penalty that they will pay for violation before the agreement is ratified, rather than after it has been violated.

We must also be prepared to take whatever unilateral steps are required to defend against threats posed by violations. For example, tactical or strategic ballistic missile defenses like those included in the Strategic Defense Initiative should be deployed as a safeguard against cheating on this INF or some future strategic ballistic missile accord.

Any new agreement should be verifiable by means that do not require us to suffer Soviet violations in silence.

The Soviet Union is so vast a land mass that it is difficult, if not impossible, to achieve perfection in verification. Still, with a well-designed verification scheme that includes satellite monitoring and on-site inspection, we can narrow the uncertainty to tolerable levels.

What we should not do is make deals that are dependent on verification through means so sensitive that we dare not go public with the information for fear of compromising an intelligence capability.

Thus we should obtain the maximum degree of verification possible using nonclassified means. We can then hold the Soviets accountable to impose whatever sanctions are appropriate to the violation, up to and including a U.S. withdrawal from the treaty and the initiation or resumption of activity banned by the treaty. We must resolve to do so, or the United States ought not to enter into agreements.

Any agreement should itself be precise, clear and unambiguous.

An agreement that is ambiguous on its face is a disaster waiting to happen, a virtual invitation to exploitation and cheating by the Soviets.

In 1972 the Senate was given assurances by the Nixon Administration that the vague and ambiguous SALT I treaty's language on "heavy ICBMs" would prohibit a significant increase in the size of the Soviet SS-11 intercontinental ballistic missile. Later the Soviets upgraded the SS-11, transforming it into the much larger SS-17 and SS-19, claiming that they were not "heavy" ICBMs. The United States sheepishly acquiesced to the very difficult Soviet interpretation, conceding that the treaty itself was vague on what precisely was meant by "heavy."

It should be obvious by now that ambiguities in language are not accidents. Where the Soviets insist on vagueness in drafting, it is to disguise the fact that a disagreement clearly exists in substance.

Any new agreement should bring benefit that does not depend on any contingency other than performance of its own terms.

The Senate should not settle for an arms agreement whose primary justification is that it will lead to a "good agreement." Henceforth, every arms agreement should

stand on its own feet and offer significant benefit or value without reference to, or dependence on, some future performance or event.

The embarrassing fact is that Gerard C. Smith, the chief negotiator for the anti-ballistic-missile treaty, cautioned the American public in 1972 that limitations on anti-ballistic-missile defenses would be in the national interest only if reductions in offensive forces were achieved within five years. Fifteen years later we are still waiting for offensive reductions, and Ambassador Smith is now desperately and unconvincingly trying to rationalize why strategic defenses of America remain inconsistent with our national interests.

BICENTENNIAL MINUTE

OCTOBER 14, 1906: "PEOPLE'S LOBBY"

Mr. DOLE. Mr. President, 81 years ago today, on October 14, 1906, there was talk of creating a "People's Lobby" in Congress. In the wake of the muck-raking magazines' attacks on "the Treason of the Senate," prominent reformers called for the establishment of such a citizens' lobby, to scrutinize legislation, detect any "snakes," and warn the public about them.

Charles Thompson, a New York Times Washington correspondent, responded that in fact a "People's Lobby" already existed. It consisted of 150 trained professional observers, who were "weighing, doubting, scrutinizing, /and/ suspecting" congressional behavior every day. He was referring to the Senate and House press galleries.

According to Thompson, "not a week goes by that some bill is not killed or some departmental error corrected by the People's Lobby." He cited the example of the Hepburn railroad rate bill, which had recently been enacted after a long and bitter congressional debate.

At every step of the way every proposition that was offered was scrutinized and its character shown up. Every attempt to hamstring the bill met instant and wide publicity. * * * When the bill came over from the House it was to be an easy matter to emasculate it and turn it back to the President in a harmless condition. That no such effort succeeded is due to the People's Lobby. So closely did it watch the game that day after day Senators, red with indignation, were obliged to rise in their places and hurl back some new charge that had appeared in the morning's paper. The People's Lobby was unmoved by such spectacular denial; it went right on with its work.

Eighty-one years later, it is good to report that the "People's Lobby" is still on the job, keeping a watchful eye on the Senate's proceedings.

THE SPECTER OF SEQUESTER: II

Mr. CHILES. Mr. President, the date for the initial Presidential sequester order is just 6 days away.

The whole idea behind sequester was to force Congress and the President to work together and find a responsible way to reduce the Federal deficit. Sequester was intended to be the price we would have to pay for failure.

But now, Mr. President, something else seems to be at work behind the scenes. Some top people in the administration now appear to view sequester as a drastic way to achieve their own version of success—an opportunity to make across-the-board cuts in a number of key programs.

Under those circumstances, some people seem willing to treat sequester like a big firecracker. All you have to do is toss it in the street, put your hands over your ears, and wait for it to go off.

But let us see what happens when that firecracker lands on Main Street, rural America.

To begin with, a sequester would mean cuts of $754 million in Commodity Credit Corporation payments in 1988, and another cut of $637 million in 1989.

Wheat and feed grain programs will take a real beating under a Presidential sequester. The cuts will total nearly $1 billion out of the total $23 billion sequester amount. Feed grain programs would be cut $750 million. Wheat would take a cut of $235 million. Soybeans, rice, cotton, and dairy programs would all be cut in amounts ranging from $25 to $75 million.

If sequester takes place, agricultural credit insurance programs will be reduced between $135 and $160 million for direct loans, and more than $220 million for guaranteed loans.

As for quality control of foodstuffs, the Food Safety and Inspection Service will be reduced by up to $33 million. It would mean 30- to 60-day furloughs for all agency personnel, and could result in some plant shutdowns since an inspector is required to be present during most plant operations.

The Animal, Plant and Health Inspection Service would lose 500 employees when their funding is cut by nearly $30 million.

And a sequester would hit key programs serving rural areas. The Rural Electrification Administration guarantee program for both electricity and telephones would be cut $80 million. Rural housing programs which were cut by one-third 2 years, would be cut by another $160 million. That leaves a much smaller pool of funds to help building single and multifamily housing in rural areas.

Mr. President, everybody knows things have been tough—even tragic—for agriculture the last few years. A lot of hard-working people have invested huge amounts of time trying to work out thoughtful options for farm programs. Reconciliation would surely mean cuts in agriculture programs, but at least we would be making choices rather than excuses.

Yet, accepting a Presidential sequester would be like walking away from those same problems. In fact, it would tend to aggravate those problems.

All of us want to reduce costs. We all want to save money in agriculture programs. But springing the trap door isn't the way.

With American farmers losing ground in foreign markets, and with rural communities losing people to depressed economies, it seems to me we can do better than just let the door slam.

Sequester just is not a reasonable option in the deficit-reduction fight. Nobody ever said it was. In fact, we said from the very beginning that sequester was so bad it would force Congress and the President to work in harness.

The way I read things right now, some people are wiling to slip the traces. As bad as a Presidential sequester would be, some people would prefer it rather than go on record and make hard choices.

How would we explain that, Mr. President. Do we just go home after the $23 billion ax has fallen and say, "I don't know. It just happened"?

The fact is, if we cannot get together on this, it really will "just happen." It was designed to "just happen." But another part of the design called for cooperation between the White House and the Congress so we would make things happen.

No question, there will have to be some cuts. But we still have the power to decide where, and by how much. To reach the $23 billion deficit-reduction level, there will likely have to be some new revenues. But we still have the time to decide where and by how much.

That is really the key issue here. We still have the time and we still have the power to survey the direction of this country and decide where, how soon, and how well.

Presidential sequester surrenders that power. With all the opportunities we have, this is no time to talk about surrender. It is time to get together.

So, once again, I invite the administration to join us to find the responsible way to get the work done.

Mr. President, I ask unanimous consent that a factsheet explaining in more detail the impact of sequester on agriculture and rural programs be printed in the RECORD.

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

FACT SHEET: EFFECTS OF A SEQUESTER ON RURAL PROGRAMS

A sequester would result in reductions of $754 million in 1988 and $637 million in 1989 in *Commodity Credit Corporation* programs. Cuts would be made in 1988 crop payments. The Secretary of Agriculture is constrained by law to allocate the reductions evenly across commodities.

During the previous sequester, the Secretary simply reduced all cash disbursements by the sequester percentage. Payment in Kind Certificates and the Conservation Reserve were not affected. However, it is not clear how the upcoming sequester will be implemented and it appears that OMB will have a larger role in making implementation decisions.

Wheat and feed grain programs will likely bear the brunt of the reductions (contributing nearly $1 billion to the $23 billion sequester) since outlays from these commodity programs comprise over 70 percent of the sequestrable base. See Attachment A for a breakout of the target reductions by commodity.

Maximum corn deficiency payments for corn could be reduced by 10 cents per bushel; wheat deficiency payments would suffer a 17 cent cut. Soybean loan rates may be reduced by nearly 40 cents per bushel.

Agricultural Credit Insurance programs will suffer a $135 to $160 million reduction in direct loan levels and a $250 to $221 million reduction in guaranteed loan levels. These reductions will result in roughly 1,850 fewer direct farm operating loans and 2,500 fewer guaranteed operating loans.

The *Agricultural Extension Service* would be reduced by nearly $30 million. These cuts could lead to the elimination of 800 Federal positions and the closure of a number of county offices.

The *Food Safety and Inspection Service* will be reduced by $33 million. Since 87 percent of the Service's budget is comprised of personnel costs the sequester could result in 30-60 day furloughs of all agency personnel. This in turn, may result in some plant shutdowns since the law requires that an inspector be present during most plant operations.

The *Rural Electrification Administration* guarantee program (electric and telephone) will be reduced by $80 million under a sequester. The direct loan program would suffer a $75 million reduction.

The sequester could lead to a reduction of $28 million and 500 employees from the *Animal Plant and Health Inspection Service.* Most of these reductions would occur in the Agricultural Quarantine Inspection (port of entry) program. Reductions will also occur in cooperative agreements with states.

Rural housing programs, which were reduced by at least a third two years ago, would be reduced by over $160 million from current appropriations, leaving less than $1.8 billion available for loans for new construction. If a continuing resolution were enacted at current rates, the reduction would be $180 million, leaving a program level of $1.853 billion. This program is critical to ensuring an adequate supply of both single and multifamily housing in rural areas, where existing housing stocks are often inadequate. A sequester under either scenario would result in a loss of over 2,000 new units.

Rural development loan programs, which provide resources necessary for development of water and sewer facilities, would be reduced by $46 million from current appropriations, while a continuing resolution at current rates would cut $48 million from the program. In both cases, the program level for RDIF programs would be $493 million.

Regional development programs—the Economic Development Administration and the Appalachian Commission—would be reduced by $16 million and $9 million, respectively. EDA would have a program level of approximately $174 million, while ARC would be funded at a level around $100 million. These programs provide an important source of capital for job creation in economically depressed, rural areas.

Note: Where two reduction levels are provided—the first number refers to reductions which would occur under current Senate appropriated levels and the second number refers to reductions which would result from cuts to an inflated 1987 enacted baseline. If only one number is provided it means that the two methodologies for calculating the reduction yielded similar results and the reduction shown reflects cuts from an inflated 1987 enacted baseline.

Potential impact of sequester by commodity

Feed grains—$750,000,000
Wheat—$235,000,000
Rice—$65,000,000
Cotton—$35,000,000
Soybeans—$25,000,000
Dairy—$75,000,000

NOTE.—Numbers are rounded.

THE ALABAMA SHAKESPEARE FESTIVAL

Mr. HEFLIN. Mr. President, 15 years ago the Alabama Shakespeare Festival [ASF] was only a dream in director Martin Platt's life. Today he has transformed this dream, with remarkable zeal, into one of the largest region theaters in the United States. He has seen his theater undergo expansion which is heralded as the largest of its kind in all of America. He has watched his theater become the people's theater as Alabamians have taken ASF into their hearts. The Alabama Shakespeare Festival has created an air of energy and intellectual stimulation that pervades my State. It is responsible for an education in the arts for young and old alike. All who are in any way connected with the festival are to be congratulated for their tremendous success, and commended for their efforts.

In 1972 the ASF was founded in Anniston, AL. Its small company of 15 began their productions in an unairconditioned high school auditorium. The budget was small as were the audiences—but the festival continued. Each season was more successful than the last as the citizens of Alabama demonstrated their love of Shakespeare. Slowly, news of Alabama's festival began to spread throughout the Southeast and favorable articles began to appear in out-of-State newspapers. Theater fans from all over the South began to attend the festival's performances. National coverage followed as major newspapers such as the New York Times and the Washington Post ran articles on the productions. The response to the success of the theater was phenomenal and the audiences rapidly grew.

Thus, in order to accommodate this growing audience, the festival moved to Montgomery in the fall of 1985. The festival played to over a quarter of a million people in its premiere season in Montgomery, beginning on Friday, December 13, 1985. This marks a rise in annual attendance of 650 percent. These people, from Alabama and other States and countries, were all coming to Montgomery to enjoy Shakespeare at its finest. By attracting these people as well as performances and concerts of regional and national recognition, the ASF has become a major industry for the State of Alabama. In fact the economic impact of the ASF has been projected as $11.2 million in direct and $90 million in indirect impact.

The Carolyn Blount Theater, which now houses the Alabama Shakespeare Festival, is set on a 200-acre English style park. These grounds will soon house the Montgomery Museum of Fine Arts and an exact replica of Shakespeare's birthplace. Outdoor jugglers, bands, and mimes, often use the gardens as a stage for their performances. The theater itself houses two stages, rehearsals halls, administrative offices, costume and property shops, a snack bar and gift shop. The two stages differ in ways which allow for the production of a wide variety of works. The festival stage, which seats 750, allows the audience to be seated on three sides of the stage. Since no seat is more than 60 feet from the stage, action can truly happen right before the audience. The octagon stage, which seats 225, allows a variety of work due to its ability to accommodate the thrust stage, proscenium arch, or theater-in-the round productions. Both theaters are fully equipped for the hearing impaired and fully accessible to handicapped persons.

The $21.5 million so generously given by Mr. and Mrs. Winton M. Blount provided the complex with its "brick and mortar" money for the construction of the complex but many grants were still needed. As the theater was able to expand, the cost of the new productions expanded as well. The actual cost of running the theater became the issue. In a combined effort of several, there was an outpouring of support that has been a model for the rest of the Nation. It seemed everyone realized the importance of keeping this theater alive and prosperous. The National Endowment for the Humanities and the National Endowment for the Arts were a part of the nationwide support. The National Endowment for the Humanities was a major contributor to the special educational project "Shakespeare: Theater in the Mind." This was done by the grant of $75,000 to the theater. Jim Volz, the managing director and chief executive officer of ASF described the NEH as being very cooperative with the program. National Endowment for the Arts has also contributed to ASF with a grant of about $7,000. With this support as well as the support of hundreds of businesses and cooperations, individuals,

State, and city organizations, the actual running of the theater was made possible. Due to this funding several new programs were now possible and Director Martin Platt could expand the theater in several areas.

One of the new programs provided by the funding is Schoolfest. This involves the busing of more than 36,000 high school students to morning matinees at the new theater. ASF sends Alabama public schools study materials concerning the ASF's current season to help the teachers prepare their students for the productions they will be seeing at the theater. The theater has also used the funding to increase the professionalism of their performances. Now larger productions can be afforded as well as better actors, designers, and directors. In the words of Director Martin Platt,

We are all a bit more sophisticated now, a bit more discerning, and as we have grown with the festival, we have demanded more and more from the productions. As we expand our season and repertoire, we challenge our audience to join us in exploring the drama of many periods.

Platt has developed a diverse and exciting program to suit every taste. The Carolyn Blout Theater houses not only topnotch drama, but many musical concerts as well. Everything from the Preservation Hall Jazz Band to the Alabama Symphony Orchestra can be heard at the theater. The dramas also provide a range that would appeal to almost every taste. Some of the past productions of this anniversary season have been "The Taming of the Shrew," "Zelda," "Othello," and "The Tempest." There are even lectures featuring nationally known directors and outstanding scholars, to help enhance the audience's enjoyment and understanding of the theater.

This theater, with all its hope and promise for the future, has had a colorful past that has left its mark on Alabama art. It has brought distinction to Alabama. Truly a huge venture for Martin Platt—that dream so long ago. A dream luckily others were willing to share and support. For this dream has definitely benefited Alabama and her people greatly. I would like to thank the national support this venture received, for without the support of the NEH and NEA the theater would be a shell with no funds to actually run the productions. This support has helped the theater expand from a 12-week operation into a year-round production, from a high school auditorium into a $21.5 million complex—one of the finest Shakespeare theaters in the world. I ask only that the funding continue as it may provide for the furthering of other great dreams as that of Martin Platt's and the people of Alabama.

ALF LANDON—FATHER AND SUPPORTER OF SENATOR NANCY KASSEBAUM

Ms. MIKULSKI. Mr. President, this is one Democrat who would like to rise and express her condolences to Senator NANCY LANDON KASSEBAUM on the passing of her father, Mr. Alf Landon, a well-known figure in Republican circles.

I am sorry I could not have a chance to meet Mr. Landon because, from all that I have heard, he was a man of uncommon civility and uncommon sense; someone who, whether we are Republicans or Democrats, we are proud to say that we call him a fellow American.

I particularly wanted to express my condolences to Senator NANCY KASSEBAUM because we share something, both, in common: the fact that our dads helped us become what we are.

At this time of sadness in the Landon family I would like to just make a few comments and observations about the fact that Mr. Landon said that perhaps one of the happiest and proudest days of his life was when Senator NANCY LANDON KASSEBAUM took her oath of office.

My dad felt the same way. He was too ill to come. I am sorry, really, that both of those men, Mr. Mikulski and Mr. Landon, never had a chance to meet each other because one would have thought: What would those two guys have ever had in common? One was a Democrat; one was a Republican. One was a Governor; one was a grocer. One was a Presidential candidate and one was a quiet community leader; perhaps the only office he ever ran for was in the Knights of Columbus.

But they shared something else in common and that is that they both believed in their daughters. Studies will show that for those daughters who have achieved positions of high achievement, it came because we not only had the support of our mothers, but we had the support of our dads.

Much has been said about the father-son relationship, an important relationship. Very little has been said about the father-daughter relationship. For those of us who often share positions where we are either the first or, in some instances the only, we know that we have the strength to pursue those objectives because of the dads we had.

So that in paying this salute to Mr. Alf Landon I would like to pay a salute to those dads of daughters who believe in us, who saw us through pigtails and proms, who were with us to provide for our education and stood by us during those tough elections. For those dads out there everywhere who pay the bills, take out the insurance and say: "Don't worry, kiddo, you can do it," I would like to pay my respects and express my gratitude.

SYMPATHY TO THE REED FAMILY

Mr. DOLE. Mr. President, I would like to extend my sincerest sympathy to the family of Abby Saffold, the secretary for the majority, on the loss of her father, Dr. Robert B. Reed.

Dr. Reed was formerly a professor at Harvard University's School of Public Health.

As all of us on the Republican side know, Abby works tirelessly on behalf of the majority leader. But she is also extraordinarily considerate of Members on the Republican side of the aisle. And we truly appreciate her commitment to the Senate.

To Abby, her mother and brother, I offer my prayers and condolences.

AUGUST TRADE FIGURES

Mr. BYRD. Mr. President, this morning, the Commerce Department released the latest news from the trade front—yet, another deficit. While the deficit is not quite as large as last month's record, the August deficit, $15.7 billion, is still the third largest on record. When it comes to trade deficits, America remains in a class by itself.

What troubles me most about the deficit, Mr. President, is that exports slipped lower by almost $1 billion. Exports must grow and grow rapidly if the United States is to move back toward a trade balance and to stop the still rising mountain of external debt.

It is increasingly apparent that this will not be a good trade year. Over the first 8 months of 1987, we are already more than $5 billion dollars ahead of last year's record breaking pace.

Mr. President, at the start of this year, the Democrats laid out an economic program that was designed to lay the basis for reversing the trade deficit as part of a strategy for long term economic growth. We have sent to conference a thousand page trade and competitiveness bill that will open markets for U.S. exports, strengthen the international trading system, improve long run competitiveness through investments in people and new ideas and provide training for thousands of Americans thrown out of work by a rapidly changing economy. Where the U.S. budget deficit was part of the problem, we put in place a deficit reduction process and started to make hard choices.

Yet, year by year, trade deficit by trade deficit, the administration seems more interested in rhetoric than reality. As the United States plunged from the world's largest creditor to the world's largest debtor, there has been no sense of administration concern, no sense of urgency.

Mr. President, the country faces a challenge unlike any other we have every dealt with. We have not been hit

with the shock of a surprise bombing raid or stunned by a Soviet success in space. Instead, we face the threat of diminished opportunity, gradually declining living standards, a downsized American dream, and a reduced role in world affairs. That is not the America I grew up with. It is not the America I want to pass on to my grandchildren.

America's ability to compete in global markets is central to our economic future. And our economic future will help determine our ability to meet our promises at home and provide leadership abroad.

The Senate and the House are busy working out their differences, making two competitiveness bills better. What we need, Mr. President, is an administration actively working to put our future back on track.

TRIBUTE TO CLARE BOOTHE LUCE

Mr. THURMOND. Mr. President, on Friday, October 9, 1987, Clare Boothe Luce, a powerful, intelligent, and accomplished woman in American history, died at the age of 84. Ambassador Luce was one of the most respected and admired women of the 20th century, and she was also a very dear friend.

Ambassador Luce possessed a unique combination of brilliance and drive which enabled her to succeed in positions that, during her early years in public service, were traditionally occupied by men. She served as Ambassador to Italy under President Eisenhower and as a two term Congresswoman from Connecticut. Her actions paved the way for many of the advances women have achieved in the public as well as the private sector.

Clare Boothe Luce was as charming as she was unpredictable. She was an individual in every sense of the word, one who defined her goals and applied undaunted determination to achieve them. She lived life to its fullest, achieving recognition in a variety of fields. From her early position as a young "Vanity Fair" editor to her recent position as a Reagan appointee to the Foreign Intelligence Advisory Board and consultant to the National Security Council, Ambassador Luce worked hard, served well, and earned the abiding respect of those who knew her.

It is a source of pride for many South Carolinians that Mr. and Mrs. Henry Luce donated a beautiful estate in South Carolina to be used as a monastery. The town surrounding this area has become known as Moncks Corner. We are very grateful for her philanthropy.

She will be remembered as much for who she was as for what she accomplished. We are saddened by her death, and Nancy and I join with my colleagues in extending deepest sympathy to her family.

Mr. President, I was pleased to have the opportunity today to attend a memorial service for Ambassador Luce at the church of Saint Stephen Martyr. It was a fitting tribute to a remarkable woman. I ask unanimous consent that the text of the program from that service be printed in the RECORD following my remarks.

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

TO THE GLORY OF GOD LET'S CELEBRATE THE LIFE OF CLARE BOOTHE LUCE—AUG. 10, 1903—OCT. 9, 1987—NEW YORK CITY, WASHINGTON, DC.

THE CHURCH OF SAINT STEPHEN MARTYR

Memorial Mass for Ambassador Clare Boothe Luce—October 14, 1987

Celebrants

Rev. Frank J. Bober, Presider.
Rev. Thomas J. Sheehan, Concelebrant.

Readers

Lila F.L. Luce, Old Testament Reading.
Clare Middleton Luce, New Testament Reading.
Eulogizers: Henry Luce III, William F. Buckley, Jr.
Eucharistic ministers: Sr. Roberta Hennings, OSF, Eric Olson.
Acolyte: Peter Holden.
Organist: Lynn Monkres.
Cantor: Claire Rieffel.
Special remarks: Most Rev. Edward J. Herrmann.

OPENING HYMN
"Amazing Grace"
GREETING AND OPENING PRAYER
OLD TESTAMENT READING
RESPONSORIAL
NEW TESTAMENT READING
GOSPEL
HOMILY
PRAYERS OF THE FAITHFUL
PREPARATION OF THE GIFTS
"Love Divine, All Loves Excelling"
EUCHARISTIC PRAYER
OUR FATHER
SIGN OF PEACE
COMMUNION
"Adagio for Strings"—Samuel Barber
EULOGIES
CLOSING PRAYER
BLESSING
CLOSING HYMN
"For All the Saints"

The family of Clare Boothe Luce wish to express their deepest gratitude to all who have come to celebrate the life of Clare Boothe Luce in this Memorial Service, expecially our most honored and distinguished guests and friends. May God bless and keep each and everyone of you in His loving care!

MESSAGES FROM THE HOUSE

At 10:30 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 799) to designate a segment of the Kings River in California as a wild and scenic river, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2985. An act to designate the facility of the United States Postal Service located at 850 Newark Turnpike in Kearny, New Jersey, as the "Dominick V. Daniels Postal Facility"; and

H.R. 3030. An act to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes.

At 3:52 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 317) to amend the Wild and Scenic Rivers Act by designating a segment of the Merced River in California as a component of the National Wild and Scenic Rivers System.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2472. An act to provide authorization of appropriations for activities of the National Telecommunications and Information Administration; and

H.R. 2878. An act to designate certain National Forest System lands in the States of Virginia and West Virginia as wilderness areas.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2878. An act to designate certain National Forest System lands in the States of Virginia and West Virginia as wilderness areas; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 2985. An act to designate the facility of the United States Postal Service located at 850 Newark Turnpike in Kearny, New Jersey, as the "Dominick V. Daniels Postal Facility"; to the Committee on Governmental Affairs.

H.R. 3030. An act to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

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. 2472. An act to provide authorization of appropriations for activities of the National Telecommunications and Information Administration;

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1993. A communication from the President of the United States, transmitting, for the information of the Senate, a report on an incident occurring in the Persian Gulf on October 8, 1987 involving United States forces; to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

David M. Walker, of Virginia, to be an Assistant Secretary of Labor.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 100-3. Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78) (Exec. Rept. No. 100-8).

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. DIXON:

S. 1786. A bill to establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States; to the Committee on Rules and Administration.

By Mr. DASCHLE (for himself, Mr. KERRY, Mr. SIMON, Mr. WIRTH, Mr. HEINZ, Mr. SPECTER, and Mr. PRESSLER):

S. 1787. A bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service during the Vietnam era; to the Committee on Veterans' Affairs.

By Mr. QUAYLE:

S.J. Res. 202. A joint resolution to commemorate the 50th Anniversary of the National Apprenticeship Act; to the Committee on the Judiciary.

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, Mr. PELL, Mr. DODD, Mr. SARBANES, Mr. KENNEDY, Mr. KERRY, Mr. HARKIN, Mr. BINGAMAN, Mr. SANFORD, Mr. SASSER, Mr. ADAMS, Mr. HATFIELD, Mr. DURENBERGER, and Mr. WIRTH):

S. Con. Res. 83. A concurrent resolution to congratulate Costa Rican President Oscar Arias Sanchez on being awarded the 1987 Nobel Peace Prize; placed on the Calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON:

S. 1786. A bill to establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States; referred to the Committee on Rules and Administration.

REGIONAL PRESIDENTIAL PRIMARIES ACT

Mr. DIXON. Mr. President, in 1975, the distinguished Senator from Minnesota, Walter Mondale, said:

> The way in which we select Presidential candidates is indisputably one of the most important processes in our entire political system, but it is also, unfortunately, one of the most irrational. It has evolved over nearly 200 years without design, structure, or purpose into a complex maze of State laws, party regulations, and unwritten traditions. No other major nation choose its leaders in such a chaotic manner and the question is whether or not we should do so.

What Fritz said in 1975 is even more appropriate today! Our country's Presidential primary system is seriously flawed. It fails to emphasize the selection of truly national candidates. The process badly needs to be reformed.

One of the greatest drawbacks of the system is the inordinate amount of influence granted to the States holding the earliest primaries. Due to the recognized importance of doing well in Iowa and New Hampshire, the candidates concentrate their early campaigning almost exclusively in these States.

Consequently, only the citizens of Iowa and New Hampshire have the complete and early attention of the candidates. After a long and arduous campaign season, these voters, with the help of heavy media coverage, effectively determine who will be the frontrunners for the nomination.

Mr. President, I have the utmost respect and admiration for the people of the great States of Iowa and New Hampshire, but, I do not believe that this country is well served by this flawed nominating process. The field of candidates is narrowed before the majority of Americans get a chance to take a good look at them.

Unfortunately, because of an impending change in our process, the influence of Iowa and New Hampshire is going to increase. This change comes in the guise of reform. A reform called super Tuesday.

Super Tuesday is the product of an attempt by Southern Democrats to have their voice better heard in the "front-loading" process. These Democrats have long felt that the current primary system produces candidates unrepresentative of their concerns and special needs. In response to this problem, the Democratic Leadership Conference conceived the idea of super Tuesday.

Super Tuesday was orignially intended to be a Southern regional primary. Southern leaders felt that by consolidating their primaries, they could substantially influence the nominating process.

Initially, they appeared to be successful. Next year, every Southern State except South Carolina—14 States in all—will hold their primary or caucus on Tuesday, March 8.

However, the popularity of this idea spilled over their boundaries. Six other States have decided to hold their primaries and caucuses on March 8. The States involved—Massachusetts, Rhode Island, Nevada, Idaho, Washington, and Hawaii—are not normally considered to share the concerns of the South. Their presence greatly dilutes the intended effect of a Southern primary.

The combined results of these 20 States will dwarf the remaining primaries. Roughly one-third of the delegates to each of the parties respective conventions will now be decided on March 8, 1988. Super Tuesday, in effect, has become a quasi-national primary.

This quasi-national primary further erodes our already decaying electoral process. Its schedule, in relation to the Iowa and New Hampshire primaries, exacerbates the front loading of the current system. The resulting chain of events may effectively decide the campaign by March 8.

The Iowa caucuses take place on February 8—New Hampshire votes the next week on February 16—and then 2 weeks later—after the South Dakota, Maine, Vermont, South Carolina, and Wyoming primaries—20 States hold their primaries on super Tuesday.

Consequently, the winners of Iowa and New Hampshire will still be basking in the media spotlight when the citizens of the 20 super Tuesday States cast their primary ballots. The results will most likely be influenced by the great amount of attention focused on the "winners." Over 40 percent of the delegates could end up being chosen largely because of the preferences of two States. Iowa's and New Hampshire's results thereby gain more, rather than less, importance.

Voters will no longer benefit from being able to see how the candidate's campaign emerges over the course of an entire primary season. The initial impression made during the beginning of the primary season will become the basis by which the voters will make their judgment. The one-two punch of the New Hampshire-Iowa primaries

and super Tuesday will deal a serious blow to the country's ability to choose a truly national candidate.

In spite of the problems with super Tuesday, I believe that regional primaries are a good idea. However, a regional primary standing by itself ineffective. It must be incorporated into an entire system of regional primaries.

In 1975, Fritz Mondale not only pointed out the failings of our Presidential system but also proposed a solution to it. He came up with a different system based on the concept of regional primaries.

I have made some changes to Fritz's proposal to bring it up to date but the bill remains very similar to his original idea.

It is based on a concept of dividing up the country into six regional primaries of approximately equal electoral sizes. States are then placed into the primaries on the basis of their particular geographical and cultural situation.

Each year, the Federal Elections Commission would decide by lot the actual order of the regional primaries. The first primary would be held on the last Tuesday in March and the remaining primaries would take place on alternate Tuesdays until the second Tuesday in June.

In addition, crossover voting would be forbidden. Voter's could only vote to choose the candidate of their registered party. Delegates would have to indicate what Presidential candidate they support unless they decide to run as "uncommitted." Both of these measures would ensure that the voters of each respective party choose who the delegates are, and ultimately who the party's nominee will be.

No one region would be able to gain the status and influence currently held by Iowa and New Hampshire because the order of the primaries would be constantly changing. Instead, every region would eventually enjoy the attention focused on the first primaries. Candidates and political strategists alike would be forced to become more familiar with every part of the country.

The qualities of the potential nominees would be revealed during the course of the six primaries. Voters would be able to discover how a candidate's message would wear when tested in the different regions of the country. The initial media image would be more thoroughly probed.

Mr. President, our Presidential primary system is in great disrepair. It grants far too much importance to the results of the earliest primaries. This "front loading" drowns out the voice of the rest of the country. Unfortunately, the development of super Tuesday assures that this inequitable feature of the current system will get worse.

A regional primary system will greatly improve our nominating process. It will not grant an inordinate amount of influence to a small group of States. It will test a candidate's ability to effectively appeal to all parts of the country. In short, it will provide the reform our Presidential primary system needs by producing seasoned and truly national candidates.

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

S. 1786

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 "Regional Presidential Primaries Act of 1987".

SEC. 2. The Congress finds that—

(1) the numerous elections held by States for the expression of a preference for the nomination of individuals for election to the office of the President of the United States are conducted without any semblance of order;

(2) the conventions held by national political parties for the purpose of nominating candidates for election to the offices of the President and the Vice President are vital to the process of selecting such candidates for national office; and

(3) in order to preserve the effectiveness of the Presidential election process and to provide for the public welfare of the Nation, the Congress must regulate certain parts of the process for selecting candidates to the office of the President.

SEC. 3. (a) No State shall conduct a Presidential primary except in accordance with the provisions of this Act.

(b)(1) Six regional Presidential primaries shall be held during each Presidential election year. The first regional primary shall be held on the last Tuesday in March of such year, and the remaining five regional primaries shall be held on the second and fourth Tuesdays in April and May, and on the second Tuesday in June, respectively.

(2) On the last Tuesday in October in each year immediately preceding a Presidential election year, the Commission shall determine, by lot, the date on which each regional Presidential primary is to be held. A State may not hold a Presidential primary on a date other than the date assigned by the Commission to the region in which such State is located.

(c) A State which conducts a Presidential primary shall conduct that primary in accordance with laws of the State with the following exceptions:

(1)(A) Each voter shall be eligible to vote only for a candidate for nomination by the party of that voter's registered affiliation, or if a State provides for registration as an independent, a voter registered as an independent may vote only for one candidate for nomination by a party with which such voter is not affiliated.

(B) If the law of any State makes no provision for the registration of voters by party affiliation, voters in that State shall register their party affiliation in accordance with procedures prescribed by the Attorney General in consultation with the Federal Elections Commission.

(2) Each ballot in an election for the selection of delegates to a national nominating convention of a national political party shall indicate the candidate of such party, if any, for whom each individual seeking the position of delegate is committed to vote at such convention. If an individual seeking the position of delegate is not committed to vote for any candidate, the ballot shall indicate that such individual is uncommitted.

(d) Whenever the Attorney General has reason to believe that a State is holding a Presidential primary in violation of the provisions of this section, he may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

SEC. 4. In order to be eligible to receive any payments under section 9037 of the Internal Revenue Code of 1986, a candidate of a political party in a Presidential primary shall, in writing—

(1) agree to have his name entered on the ballot of at least one State primary in each of the six regions established by this Act; and

(2) notify the Commission, not later than the last Presidential primary filing date within a particular region, which primary he intends to enter within that region.

SEC. 5. For the purposes of this Act, the term—

(1) "candidate" means an individual who seeks nomination for election to be President of the United States;

(2) "Commission" means the Federal Election Commission;

(3) "Presidential primary" means an election for the expression of a preference for the nomination of individuals for election to the office of President of the United States or for the selection of delegates to a national nominating convention of a political party;

(4) "region" means any of the following six regions:

(A) Northeastern region comprises Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont.

(B) Mideastern region comprises Delaware, the District of Columbia, Indiana, Kentucky, Maryland, Ohio, Pennsylvania, and West Virginia.

(C) Southern region comprises Alabama, Florida, Georgia, the Commonwealth of Puerto Rico, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and the Virgin Islands.

(D) Midwestern region comprises Iowa, Illinois, Michigan, Minnesota, Missouri, North Dakota, South Dakota, and Wisconsin.

(E) Western Plains region comprises Arizona, Arkansas, Colorado, Kansas, Louisiana, Nebraska, New Mexico, Oklahoma, and Texas.

(F) Far Western region comprises Alaska, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

(5) "State" means each of the fifty States of the United States, the District of Columbia, the Territories of the Canal Zone, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. DASCHLE (for himself, Mr. KERRY, Mr. SIMON, Mr. WIRTH, Mr. HEINZ, Mr. SPECTER, and Mr. PRESSLER):

S. 1787. A bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service in

Vietnam during the Vietnam era; to the Committee on Veterans' Affairs.

VETERANS' AGENT ORANGE DISABILITIES ACT

Mr. DASCHLE. Mr. President, today I am introducing, on behalf of Senators KERRY, SIMON, WIRTH, HEINZ, SPECTER and myself, the Veterans' Agent Orange Disabilities Act of 1987, legislation to compensate veterans suffering from a variety of diseases resulting from exposure to dioxin and other toxic herbicides.

The Veterans' Agent Orange Disabilities Act of 1987 sets out congressional findings that there is sufficient scientific evidence to warrant a presumption of service connection for, first, non-Hodgkin's lymphoma and lung cancer, and, second, disabilities associated with immuno-suppressive effects of exposure to dioxin and other toxic herbicides.

The bill also amends title 38 U.S.C. to establish a presumption of service connection for veterans who served in Vietnam, were exposed to dioxin or other toxic herbicides, and are suffering from the following conditions:

First, non-Hodgkin's lymphoma;

Second, lung cancer manifested within 25 years of the veteran's last day in Vietnam, and

Third, disabilities that are reasonably associated with suppression of the immune system as a result of exposure to dioxin or other toxic herbicides.

The bill adopts the Veterans Administration's definition of exposure to Agent Orange for compensation purposes. The bill acknowledges the VA's regulations that find it reasonable to presume that "any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era was exposed to dioxin or other toxic herbicides during such service," and applies that same standard to compensation language.

In order to determine disabilities reasonably associated with suppression of the immune system as a result of exposure to dixoin or other toxic herbicides, the bill authorizes the National Academy of Sciences (or other appropriate nonprofit private scientific organization if the National Academy of Sciences declines to participate) to establish a committee to survey existing and ongoing scientific data.

Within a year, the Academy would submit a report listing the disabilities associated with immuno-suppression resulting from exposure to dioxin or other toxic herbicides. The Administrator of the VA would then be required to add those disabilities to the list of compensable disabilities, since their service connection would already be presumed. The Academy and the VA would make annual adjustments to the list as more scientific data becomes available.

Finally, the VA would be asked to gather and analyze, on a continuing basis, all clinical data from the health records of veterans examined or treated for disabilities related to dioxin or other toxic herbicides since the enactment of Public Law 97-72, which mandated treatment for agent orange-related health effects. The VA would submit a report on the disabilities treated and the incidence of such disabilities to the House and Senate Veterans' Affairs Committees within 1 year and would make subsequent semiannual reports.

Mr. President, there will be those both within and outside this body who will object to this legislation. They will say that there is not enough scientific "proof" that agent orange causes specific health effects among Vietnam veterans. They will say that we need more studies before we can compensate veterans. They will say that veterans should "wait patiently."

Mr. President, veterans have waited patiently, and they have waited long enough. They and their children are suffering from negative health effects they believe to be caused by exposure to agent orange. Numerous studies of humans and laboratory animals suggest a link between agent orange and many of these negative health effects. Veterans have naturally turned to their Government—the same Government that called upon them to serve in Vietnam—for answers and for help. Our collective response has been painfully slow and inadequate.

Why? What are we waiting for? Some say we must wait for "absolute proof." Scientists and logicians will tell you, however, that we will never have absolute proof of a casual relationship between disease and exposure to agent orange—just as we will never have absolute proof that smoking causes lung cancer. But that does not mean that we cannot come to reasonable conclusions that allow us to make decisions regarding health and environmental policy and compensation.

We already have strong evidence linking agent orange to certain diseases, such as non-Hodgkin's lymphoma and lung cancer. The recently released VA Mortality Study found Marine ground troops who served in Vietnam had a 110-percent higher death rate from non-Hodgkins lymphomas and a 58-percent higher death rate from lung cancer than their counterparts who did not serve in Vietnam. Other studies have shown a high correlation between exposure to dioxin and other toxic herbicides and immune system dysfunction, which could potentially lead to any number of negative health effects.

We do not know everything there is to know about dioxin, but we certainly know enough to be concerned. We know enough to enable us to offer veterans and their families better health counseling. We know enough to help physicians look for early warning signs of health problems. We know enough to intensify our public health and environmental monitoring efforts. And, I firmly believe we know enough to justify compensation for veterans exposed to agent orange.

We compensate veterans who lost limbs, for it is fairly simple to determine that their injuries were service connected. In the case of exposure to toxic herbicides, as with exposure to the brutal conditions suffered by prisoners of war, service connection is not as readily apparent. We must rely on partial evidence and, finally, on our judgment and our compassion.

The real issue comes down to whether or not we are willing, in a situation where we may never have the complete answer, to give veterans the benefits of the doubt. Do we feel a stronger allegiance to perfect scientific knowledge, which will never be attained, or to the men and women who served this country? We will continue to wait for "clearer" evidence, even though it will come too late for most, if not all, veterans?

We have appropriately found current evidence sufficient to justify compensation for former prisoners of war for their health problems. It is time for us to give veterans exposed to agent orange that same benefit of the doubt.

Mr. President, I look forward to working with my colleagues to finally address the agent orange issue. Thank you.

Mr. KERRY. Mr. President, I am delighted to join with TOM DASCHLE and LANE EVANS in introducing the "Veterans Agent Orange Disabilities Act of 1987," which will begin the process of compensation for the victims of agent orange. This is a major step forward, toward putting an end to the debate and the divisions over agent orange, and completing the homecoming process for Vietnam veterans. As a Vietnam veteran myself, and as Vice-Chair of the Vietnam-era Veterans in Congress, I am pleased to be an original sponsor of this bill.

This legislation is not the total answer to the question of compensation for the victims of agent orange. But it is a large step. It will provide a presumption service-connection for lung cancers and non-Hodgkins lymphoma, and diseases associated with suppression of the human immune system, for Vietnam veterans who may have been exposed to agent orange. It will call upon the Veterans' Administration to report and analyze data and records compiled on veterans who have reported exposure to agent orange. And it will call for annual reports updating our knowledge on agent orange studies.

I know that studies are still going on on this subject. For this reason, I earlier this year introduced legislation to

call upon the National Academy of Sciences to produce a comprehensive report to the Congress within 1 year, covering all of the scientific studies and all of the evidence on agent orange. That effort is important, and it should go forward, because Vietnam veterans deserve answers.

But to make Vietnam veterans wait any longer for compensation is simply not fair to them or their families. It has now been 25 years since the first spraying of agent orange in Vietnam in 1962. Many veterans and their families are already suffering from cancers and other diseases caused by agent orange. We cannot ask them to wait any longer.

The Air Force has recently released some preliminary results from its Ranch Hand study, which are inconclusive. I must say that I have significant questions about the methodology used in the Ranch Hand study, and the reliability of these results. But the full Ranch Hand study will not be complete until the year 2002. Should we ask Vietnam veterans to wait until that study is complete, until the 21st century, before we are willing to give them the benefit of the doubt? I believe that is too much to ask.

There are already very significant results which clearly show a linkage between agent orange and several diseases. The recent VA study, which surveyed 50,000 veterans, showed that Marines who served as ground troops in Vietnam have levels of lung cancer 58 percent higher than normal, and levels of non-Hodgkins lymphoma 110 percent higher than normal. The validity of this study has been confirmed by scientists at the Boston University School of Public Health.

This is the clearest indication yet of a linkage between agent orange and significant health problems. Other strong evidence has come from studies in Massachusetts, in Kansas, in New Jersey, and many other States.

I am proud to say that the State of Massachusetts has been a leader in both the medical research on agent orange, and the organization of veterans with problems which could be related to their agent orange exposure in Vietnam. The Commonwealth's Agent Orange Program has conducted research and come up with some very important findings, some of the most important in all of the research on agent orange.

In January 1985, the Massachusetts Agent Orange Program published a report, "Mortality Among Vietnam Veterans in Massachusetts, 1972-1983". The report found that deaths due to stroke and connective tissue cancer were significantly elevated among Vietnam veterans compared to both non-Vietnam veterans and non-veteran males. The increase in connective or soft-tissue cancer was the most alarming, because this extremely rare disease is closely linked to dioxin exposure in scientific literature.

And in June 1986, the Massachusetts Agent Orange Commission released the results of a survey it conducted among Vietnam veterans in the State who believed they had been exposed to agent orange and to the highly toxic element of dioxin. These veterans reported very high incidences of birth defects, nervous disorders, and other ailments. Other States, including New Jersey, Wisconsin, Iowa, Texas, and New York, have also done surveys or studies on agent orange. And the results are similar.

I know that the CDC has recently announced that it will not be going forward with a major agent orange study, after 8 years and $63 million spent. This is disappointing for all of us. But it is all the more reason why the time has come to act.

There will always be questions about agent orange. There will always be doubters and skeptics. But, for the sake of those who have given so much already, for the veterans and their families who are suffering now, we cannot wait any longer.

The great Irish poet, William Butler Yeats, wrote: "Too long a sacrifice can make a stone of the heart." Many Vietnam veterans know the truth of those words all too well. They know the bitterness which comes of feeling that one's sacrifices have not been recognized or rewarded. All of us know that there was a reason for that feeling of bitterness. But we also know that during the past 5 years, since the establishment of the Vietnam Veterans Memorial in Washington, and other milestones for Vietnam veterans, that the healing process has brought many of us home again.

But there are some for whom a feeling of bitterness remains. There are those for whom the sacrifices continue, and are not yet recognized or rewarded. They are the victims of agent orange.

Elmo Zumwalt III, the son of Admiral Elmo Zumwalt, has written and spoken eloquently about the subject of agent orange. Let me quote briefly from his words, expressed in the book which he wrote about agent orange, entitled "My Father, My Son".

Elmo Zumwalt, who served as I did as a swift-boat officer in Vietnam, wrote:

> I had seen Agent Orange defoliation nearly everywhere I had patrolled, but from the air the extent of it was dramatic—trees were stripped of leaves, thick jungle growth was reduced to twigs, the ground was barren of grass. In the 11 months I was in Vietnam, I had often washed in the waters into which Agent Orange had drained, and had eaten local produce which I suspect had been doused with the chemical. I remember developing a skin rash while in the Sea Float area. I have since learned that one of the effects of Agent Orange exposure is a skin rash. But at the time, I was thankful for the defoliation. It meant the enemy could not attack Sea Float without great cost to itself.

And these are the words of Elmo Zumwalt today, knowing that he is the victim of Hodgkin's disease, a severe form of cancer, and that his son Russell is the victim of a learning disability, both probably caused by agent orange. He writes:

> I am a lawyer, and I don't think I could prove in court, by the weight of the existing scientific evidence, that Agent Orange is the cause of all the medical problems—nervous disorders, cancer and skin problems—reported by Vietnam veterans, or of their children's serious birth defects. But I am convinced that it is.

I agree with Elmo Zumwalt. I am not here to criticize the use of agent orange in Vietnam, or to second-guess that decision. But I am here to suggest that the time has come to bring to a close the debate over agent orange, and to begin to provide compensation to the victims of agent orange. This Nation needs to take that further step in the healing process, in the process of closing the lingering wounds from the Vietnam war. And the Congress needs to be a part of that process.

The VA regulations on agent orange continue to be totally inadequate to the needs of veterans. The VA regulations recognize only chloracne, a severe form of acne, as being related to agent orange exposure. They continue to deny the existence of all other diseases, including soft-tissue cancers, as being related to agent orange. They continue to state the totally unreasonable requirement that the disease must have occurred within 1 year of service in Vietnam, in contradiction of all the facts which show that such diseases may not show up for 15 years, or 20 years, or longer.

The result of those VA regulations is that not one Vietnam veteran has received compensation for diseases which were caused by agent orange. Not one. That is no longer acceptable in 1987.

How many more body counts do we have to conduct before we decide that enough people have died, and we are now ready to say that agent orange was the cause?

How do we tell a mother who may be carrying a child with birth defects due to agent orange that we need to conduct still more studies, and wait still more years before we draw any conclusions?

How do we tell a father who may be dying of cancer due to agent orange that we as a society are not yet ready to make a decision?

How much longer are we going to make them wait? How much longer are we going to wait? And when are we going to say "Enough. These people have suffered enough".

I say that the time is now.

Let us as a society make a decision that the time is now to heal the final

wounds of Vietnam, to recognize the final sacrifices, and to make the final amends. And let us begin that process by finally, belatedly recognizing the horrors that we have visited upon ourselves and our children through agent orange.

I hope that the time has come when we can bind the center together, heal the wounds, and leave the scars and the pain of Vietnam behind us. Recognizing the pain and the wounds of agent orange, and resolving those lingering divisions between us, is an important part of that process. Together, let us complete the healing process, and put the war behind us.

By Mr. QUAYLE:

S.J. Res. 202. Joint resolution to commemorate the 50th anniversary of the National Apprenticeship Act; referred to the Committee on the Judiciary.

50TH ANNIVERSARY OF THE NATIONAL APPRENTICESHIP ACT

Mr. QUAYLE. Mr. President, today I am introducing a resolution to commemorate the 50th anniversary of the National Apprenticeship Act. The National Apprenticeship Act has made major contributions to the welfare of American workers since its enactment in 1937. An estimated 3.5 million apprentices have received training in highly skilled trades and occupations over the past 50 years. Many of these individuals have gone on to positions of leadership in their industry. Today there are almost 290,000 apprentices in some 44,000 registered programs.

The apprenticeship concept embodies many of the elements that make for successful training:

It is voluntary system, supported and administered locally by industry and labor;

It can be tailored to the unique needs of each particular occupation or firm; and

It provides workers with widely recognized credentials.

These elements will be particularly valuable in meeting the skill requirements of the labor force in the next decade. There will be a growing need for post-education training supplied by firms to keep abreast of rapidly changing technology. At the same time, much of the job growth will take place in small firms which lack the capacity for extensive training systems. Apprenticeship, with its emphasis on one-to-one training and adaptability, is well suited to these requirements.

As impressive as the accomplishments of apprenticeship have been, the full potential of the concept has yet to be realized. Apprenticeship in this country has been limited to a relatively small number of traditional occupations. In Europe, by contrast, apprenticeship is widely used across a broad range of subprofessional occupations and by most business industrial sectors. A level of apprenticeship equivalent to that of Germany, for example, would mean 7 million apprentices in the United States.

Accelerating technological change and the demands of competitivenss for a flexible work force suggest that a revitalized and modernized apprenticeship system will be even more essential in the 21st century. Such a system could provide a vehicle for industry-based upgrading and renewal of worker skills.

It is appropriate to recognize the achievements of the National Apprenticeship Act, while we are looking for creative ways to employ the concept and structure of the apprenticeship system to meet the demands of our work force in the year 2000.

I urge my colleagues to support this resolution observing the 50th anniversary of the anactment of the National Apprenticeship Act.

ADDITIONAL COSPONSORS

S. 9

At the request of Mr. CRANSTON, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 9, a bill to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors; to provide additional eligibility for certain educational or rehabilitation assistance to veterans and other eligible individuals with drug or alcohol abuse disabilities; to increase the maximum amount of a home loan which is guaranteed by the Veterans' Administration; to improve housing, automobile, and burial assistance programs for service-disabled veterans; and to extend and establish certain exemptions from sequestration for certain veterans' benefits; and for other purposes.

S. 10

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. INOUYE] 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. 332

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 332, a bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans, and for other purposes.

S. 1118

At the request of Mr. HELMS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1118, a bill to help prevent rape and other sexual violence by prohibiting dial-a-porn operations.

S. 1391

At the request of Mr. EXON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1391, a bill to amend the Surface Transportation Assistance Act of 1982.

S. 1489

At the request of Mr. MOYNIHAN, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1489, a bill to amend section 67 of the Internal Revenue Code of 1986 to exempt certain publicly offered regulated investment companies from the disallowance of indirect deductions through pass-thru entities.

S. 1519

At the request of Mr. LAUTENBERG, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1519, a bill to authorize the President of the United States to award congressional gold medals to Lawrence Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sports and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals.

S. 1774

At the request of Mr. PRYOR, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 1774, a bill to promote and protect taxpayer rights, and for other purposes.

S. 1781

At the request of Mr. CHAFEE, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1781, a bill to amend the Internal Revenue Code of 1986 to permit donors of debt of developing nations to charitable organizations to obtain a charitable deduction equal to their basis in the debt.

SENATE JOINT RESOLUTION 97

At the request of Mr. HATCH, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor 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 Oregon [Mr. PACKWOOD], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from South Carolina [Mr. THURMOND], the Senator from Wisconsin [Mr. KASTEN], the Senator from Alaska [Mr. STEVENS], the Senator from Illinois [Mr. SIMON], and the

Senator from Washington [Mr. ADAMS] were added as cosponsors of Senate Joint Resoluton 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 144

At the request of Mr. WIRTH, the names of the Senator from Kansas [Mr. DOLE], the Senator from Nevada [Mr. HECHT], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Washington [Mr. ADAMS], the Senator from Florida [Mr. CHILES], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Indiana [Mr. LUGAR], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Vermont [Mr. LEAHY], the Senator from North Carolina [Mr. SANFORD], the Senator from Tennessee [Mr. SASSER], the Senator from Alabama [Mr. SHELBY], and the Senator from Mississippi [Mr. STENNIS] were added as cosponsors of Senate Joint Resolution 144, a joint resolution designating the week beginning October 18, 1987, as "Financial Independence Week".

SENATE JOINT RESOLUTION 196

At the request of Mr. PACKWOOD, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Michigan [Mr. RIEGLE], the Senator from North Dakota [Mr. CONRAD], the Senator from Illinois [Mr. DIXON], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 196, a joint resolution to designate February 4, 1988, as "National Women in Sports Day."

SENATE JOINT RESOLUTION 201

At the request of Mr. GARN, the names of the Senator from Illinois [Mr. DIXON], the Senator from Louisiana [Mr. BREAUX], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 201, a joint resolution to designate January 28, 1988, as "National Challenger Center Day" to honor the crew of the space shuttle *Challenger*.

SENATE CONCURRENT RESOLUTION 23

At the request of Mr. CRANSTON, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of Senate Concurrent Resolution 23, a concurrent resolution designating jazz as an American national treasure.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. STEVENS, The name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Concurrent Resolution 43, a concurrent resolution to encourage State and local governments and local educational agencies to provide quality daily physical education programs for all children from kindergarten through grade 12.

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. SANFORD, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Concurrent Resolution 63, a concurrent resolution expressing the sense of the Congress regarding the formulation and implementation of a regional economic development and recovery program for Central America.

AMENDMENT NO. 953

At the request of Mr. WEICKER, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of Amendment No. 953 proposed to H.R. 3058, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

SENATE CONCURRENT RESOLUTION 83—SUBMISSION OF A CONCURRENT RESOLUTION TO CONGRATULATE COSTA RICAN PRESIDENT OSCAR ARIAS SANCHEZ

Mr. BYRD (for himself, Mr. PELL, Mr. DODD, Mr. SARBANES, Mr. KENNEDY, Mr. KERRY, Mr. HARKIN, Mr. BINGAMAN, Mr. SANFORD, Mr. SASSER, Mr. ADAMS, Mr. HATFIELD, Mr. DURENBERGER, and Mr. WIRTH) submitted the following concurrent resolution, which was ordered placed on the calendar.

S. CON. RES. 83

To congratulate Costa Rican President Oscar Arias Sanchez on being awarded the 1987 Nobel Peace Prize.

Whereas the President of Costa Rica, Oscar Arias Sanchez has been awarded the 1987 Nobel Peace Prize in recognition of "his outstanding contribution to the possible return of stability and peace to a region long torn by civil war."

Whereas President Arias has called for "a commitment to the struggle for peace and putting an end to war and ensure that dialogue prevails over violence and reason for rancor";

Whereas President Oscar Arias Sanchez has stated that in an "atmosphere of democracy and freedom, we can return to the path of development that will enable a lasting peace" and has asked for the people of the United States with the people of Costa Rica to bring to bear the power of the principles and democratic values that they share to end the conflict in Central America;

Whereas on March 12, 1987 the United States Senate voted 97 to 1 "supporting the initiative of the Central American heads of state . . . in formulating a regional proposal by President Arias to end the armed conflict in Central America;

Whereas through the leadership of President Arias the Presidents of El Salvador, Guatemala, Honduras and Nicaragua met August 6-7 in Guatemala City and signed an agreement based on the Arias plan, setting forth a framework aimed at the establishment of a lasting peace in Central America;

Whereas the United States Senate endorses the goals of peace, democratization and development in Central America; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States of America—

(1) Congratulates President Oscar Arias Sanchez as the recipient of the 1987 Nobel Peace Prize and commends the Norwegian Nobel Committee on this outstanding choice;

(2) Recognizes the signing of the August 7 Guatemala peace accord is an historic achievement and important opportunity for the Presidents of Central America to work together to restore peace and stability to their region;

(3) Urges the parties to the peace accord to implement all of its provisions in good faith; and

(4) pledges its firm support and full cooperation with respect to such good faith implementation of the August 7, 1987, Central America peace agreement.

AMENDMENTS SUBMITTED

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1988

CRANSTON (AND WILSON) AMENDMENT NO. 955

Mr. CRANSTON (for himself and Mr. WILSON) proposed an amendment to the bill (H.R. 3058) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1988, and for other purposes; as follows:

At the appropriate place, insert the following new section:

SEC. . (a) Subject to subsection (b), none of the funds made available by this or any other Act may be used by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) The prohibition established in subsection (a) shall apply until—

(1) the Court of Appeal for the Third Appellate District of California has rendered a final judgment in each of the cases—

(A) *Ixta et al. v. Renaldi* (Case No. 3 Civil C 002805); and

(B) *California State Employees Association, Local 1000 Service Employees International Union, AFL-CIO, a California Corporation, on behalf of its affected members v. Deukmejian et al.* (Case No. 3 Civil C 002664); and

(2) all direct appeals by the parties in each of the cases have been completed.

HELMS AMENDMENT NO. 956

Mr. HELMS proposed an amendment to the bill H.R. 3058, supra; as follows:

At the appropriate place, add the following new section:

SEC. . (a) Notwithstanding the matter under the heading "CENTERS FOR DIS-

EASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone sexual activity outside a sexually monogamous marriage (including homosexual sexual activities) or the use of illegal intravenous drugs.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and

(2) abstinence from the use of illegal intravenous drugs.

(c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsection (a) and (b) includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

(e) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

HELMS AMENDMENT NO. 957

Mr. HELMS proposed an amendment to the Helms amendment No. 956 to the bill (H.R. 3058), supra; as follows:

At the appropriate place in the pending amendment, add the following:

SEC. ——. (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone homosexual sexual activities.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from homosexual sexual activities.

(c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

MELCHER AMENDMENTS NOS. 958 AND 959

Mr. MELCHER proposed two amendments to the bill (H.R. 3058), supra; as follows:

AMENDMENT No. 958

On page 18, between lines 2 and 3, insert the following:

SEC. 106. The Secretary of Labor shall conduct a thorough study of older workers who have previously retired from or were pressured to leave a job and are reentering the workforce. The Secretary of Labor shall prepare and submit a report on the study required by this section to the Congress not later than 1 year after the date of enactment of this Act. The report required by this subsection shall contain such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

AMENDMENT No. 959

On page 39, between lines 9 and 10, insert the following:

STATE LONG-TERM CARE OMBUDSMAN HOMECARE DEMONSTRATION PROJECTS

For carrying out State long term care ombudsman homecare demonstration projects conducted under grants made by the Secretary of Health and Human Services, $1,000,000.

On page 6, line 25, strike out "$81,192,000" and insert in lieu thereof "$80,192,000", and strike out "$13,600,000" and insert in lieu thereof "$12,600,000".

MELCHER (AND MATSUNAGA) AMENDMENT NO. 960

Mr. MELCHER (for himself and Mr. MATSUNAGA) proposed an amendment to the bill H.R. 3058, supra; as follows:

On page 39, line 9, strike out "$2,565,785,000" and insert in lieu thereof "$2,570,785,000".

On page 7, line 20, strike out "$216,952,000" and insert in lieu thereof "$214,052,000".

On page 7, line 21, strike out "$8,000,000" and insert in lieu thereof "$5,100,000".

BENTSEN AMENDMENT NO. 961

Mr. BENTSEN proposed an amendment to the bill (H.R. 3058), supra; as follows:

On page 56, at the end of line 25, add the following: Of the funds provided under this head in fiscal year 1987 in section 101(i) of Public Laws 99-500 and 99-591, for carrying out title VII of the Elementary and Secondary Education Act, which are unobligated, $1,301,930 are reappropriated to carry out title VI of the Education Amendments of 1984 to be used to fund the amended application from the State of Texas for the Emergency Immigrant Education program: Provided, That the reappropriated funds shall be available until September 30, 1988.

STAFFORD AMENDMENT NO. 962

Mr. STAFFORD proposed an amendment to the bill (H.R. 3058), supra; as follows:

On page 48, line 14, strike out "$4,478,000,000" and insert in lieu thereof "$4,477,000,000".

On page 48, line 21, strike out "$285,000,000" and insert in lieu thereof "$284,000,000".

On page 49, line 4, strike out "$8,000,000" and insert in lieu thereof "$9,000,000".

On page 49, line 8, after the colon insert the following: *"Provided further,* That $1,000,000 of the amount made available for the High School Equivalency program shall be awarded to the three highest ranking unfunded project applications for grants made pursuant to the fiscal year 1987 appropriation:".

HELMS AMENDMENT NO. 963

Mr. HELMS proposed an amendment, which was subsequently modified, to the bill H.R. 3058, supra; as follows:

At the appropriate place, insert the following:

SEC. . (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote or encourage, directly or indirectly, homosexual sexual activities.

(b) Education information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and

(2) abstinence from the use of illegal intravenous drugs.

(c) The homosexual activity referred to in subsection (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsection (a) and (b) includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

(e) If the Secretary of Health and Human services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

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HELMS AMENDMENT NO. 964

Mr. HELMS proposed an amendment to amendment No. 963 proposed by him, and subsequently modified, to the bill (H.R. 3058), supra; as follows:

At the end of the pending amendment, add the following:

SEC. . (a) None of the funds made available under this Act to the Centers for Disease Control for AIDS educational, informational, or preventional materials and activities for school aged children and young adults shall be used to provide educational, informational, or preventative materials or activities that encourage, or promote—

(1) sexual activities outside of a sexually monogamous marriage; or

(2) the use of illegal intravenous drugs.

(b) All AIDS educational, informational, and preventative materials and activities for school aged children and young adults shall emphasize-

(1) absinence from sexual activity outside of a monogamous marriage; and

(2) abstinence from the use of illegal intravenous drugs.

(c) The sexual activity referred to in subsections (a) and (b) includes any sexual activity as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsections (a) and (b) includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

CRANSTON (AND WILSON) AMENDMENT NO. 965

Mr. CRANSTON (for himself and Mr. WILSON) proposed an amendment to the bill (H.R. 3058), supra; as follows:

At the appropriate place in the bill insert ": *Provided*, That, in administering funds made available under this Act for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as expeditiously as possible and with as many subjects as is scientifically acceptable".

EVANS AMENDMENT NO. 966

Mr. EVANS proposed an amendment to the bill H.R. 3058, supra; as follows:

On page 59, line 25, strike out, "5,837,598,000" and insert in lieu thereof, "5,837,098,000".

On page 61, between lines 18 and 19, insert the following:

"For carrying out section 1341 of the Higher Education Amendments of 1986, relating to a National Academy of Sciences study on the use of volunteers in the classroom, $500,000 shall remain available until expended.".

HUMPHREY AMENDMENT NO. 967

Mr. HUMPHREY proposed an amendment to the bill H.R. 3058, supra; as follows:

Insert the following new section in the appropriate place:

SEC. . The Secretary of Health and Human Services shall:

(1) Issue a report to Congress within 90 days of the close of fiscal year 1988, of violations occurring during such year, of Department of Health and Human Services travel policy; and

(2) Require that personnel found by the report to be in violation of Department travel policy, shall reimburse the Department for funds spent in violation of Department policy.

HATCH (AND BRADLEY) AMENDMENT NO. 968

Mr. WEICKER (for Mr. HATCH, for himself and Mr. BRADLEY) proposed an amendment to the bill H.R. 3058, supra; as follows:

On page 21, insert between lines 5 and 6 the following:

"For carrying out subpart 2 of part A of title XIX of the Public Health Service Act as contained in the Senate Amendment to H.R. 1451, $5,000,000 is to be available June 1, 1988.".

On page 80, line 3, strike out "22,600,000 and insert in lieu thereof "$23,600,000.

HATCH (AND OTHERS) AMENDMENT NO. 969

Mr. WEICKER (for Mr. HATCH, for himself Mr. KENNEDY, and Mr. METZENBAUM) proposed an amendment to the bill H.R. 3058, supra; as follows:

On page 15, line 17, before the period, insert a colon and the following: *"Provided further*, That the Secretary of Labor shall submit to Congress not later than February 29, 1988, a report on the status of, and the timeable for, issuance of final regulations concerning self-contained self-rescue devices; safety standards for underground coal mine ventilation; safety standards for roof control; standards for diesel-powered equipment in underground coal mines; and safety standards for electricity, explosives and blasting in underground mines".

RUDMAN (AND KASTEN) AMENDMENT NO. 970

Mr. RUDMAN (for himself and Mr. KASTEN) proposed an amendment to the bill H.R. 3058, supra; as follows:

On page 36, line 26, strike out "$1,237,00,000" and insert in lieu thereof "$1,669,386,000. Notwithstanding any other provision of this Act, the amount made available by this Act to carry out each discretionary program funded under this Act shall be reduced by 1.94 percent.".

CHILES AMENDMENTS NOS. 971 AND 972

Mr. HARKIN (for Mr. CHILES) proposed an amendment to the bill H.R. 3058, supra; as follows:

AMENDMENT No. 971

On page 48, after line 7, add a new section as follows:

"SEC. . Section 465(b) of 42 USC 286 is amended by inserting between (5) and (6) an additional charge to the Secretary to "publicize the availability of the above products and services of the National Library of Medicine." "

AMENDMENT No. 972

On page 27, line 19, after "$50,000,000,", insert the following: "of which $20,000,000 is provided for activities related to AIDS research to provide for the repair, renovation, modernization, and expansion of existing laboratory facilities; and to acquire by lease or otherwise laboratory and/or office space,".

EXTENSION OF CERTAIN PROTECTIONS UNDER THE BANKRUPTCY CODE

METZENBAUM AMENDMENT NO. 973

Mr. BYRD (for Mr. METZENBAUM) proposed an amendment to the bill (S. 1783) to extend certain protections under title 11 of the United States Code, the Bankruptcy Code; as follows:

Strike out "December 31, 1987" and insert in lieu thereof "November 15, 1987".

FISHERMEN'S PROTECTIVE ACT REAUTHORIZATION

BREAUX AMENDMENT NO. 974

Mr. BYRD (for Mr. BREAUX) proposed an amendment to the bill (H.R. 2893) to reauthorize the Fishermen's Protective Act; as follows:

At the end of this bill, add the following:

SEC. 3. The Act entitled "An Act to set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries", approved October 22, 1982 (Public Law 97-360; 96 Stat. 1718), is amended—

(1) by striking "to the peoples of developing countries" wherever it is found; and

(2) in section 7, by striking "five calendar years after the date of enactment." and inserting in lieu thereof the following: "on October 22, 1989.".

STEVENS AMENDMENT NO. 975

Mr. BYRD (on behalf of Mr. DOLE for Mr. STEVENS for himself, Mr. EVANS, Mr. MURKOWSKI, Mr. BREAUX, and Mr. ADAMS) proposed an amendment to the bill (H.R. 2893), supra; as follows:

At the end of the bill, add the following:

SEC. 2. The Act entitled "An Act to temporarily restrict the ability to document foreign-built fish processing vessels under the laws of the United States", approved August 20, 1987 (Public Law 100-111; 101 Stat. 733), is amended by striking "October" and inserting in lieu thereof "November".

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Wednesday, October 14, 1987, beginning at 11 a.m., in Senate Russell 485, on S. 1645, amendments to the Indian Education Act;

and a hearing on Thursday, October 15, 1987, beginning at 9 a.m., in Senate Russell 485, on S. 721, the Indian Finance Development Corporation Act.

Those wishing additional information should contact the committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Madam President, I ask unanimous consent that the Select Committee on Indian Affairs be permitted to meet beginning at 1 o'clock this afternoon to consider a markup. I have discussed this matter with Senator HELMS, and he has no objection.

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

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on October 14, 1987, to hold a hearing on welfare reform.

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 Wednesday, October 14, to hold hearings on the proposed legislation relating to Presidential transition.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, October 14, 1987, to conduct oversight hearings on the implications of new technology for banking regulation.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, October 14, 1987, to receive continuation testimony on Arctic National Wildlife Refuge legislation, S. 1217, a bill to amend the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to lease, in an expeditious and environmentally sound manner, the public lands within the Coastal Plain of the North Slope of Alaska for oil and gas exploration, development, and production.

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

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, October 14, 1987 at 2 p.m. to mark up farm credit legislation.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, October 14, 1987, at 10 a.m. to conduct an executive session (S. 373).

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, October 14, 1987, at 9:30 a.m. to consider pending legislation: First, S. 1030—Michigan Wilderness; second, reconciliation.

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

ADDITIONAL STATEMENTS

THE PROPOSED USAIR-PIEDMONT MERGER

● Mr. DECONCINI. Mr. President, Alfred E. Kahn, the former Chairman of the Civil Aeronautics Board and one of the principal architects of airline deregulation, testified before the Antitrust, Monopolies and Business Rights Subcommittee in late March, and expressed his concern about several airline merger decisions of the Transportation Department over the past 2 years. I was impressed with his testimony and his interest in the future direction of the airline industry in light of this wave of mergers. Last Friday night, Professor Kahn, who is now the Robert Julius Thorne professor of Political Economy at Cornell University, provided the following commentary with respect to the proposed USAir-Piedmont merger on the PBS Nightly Business Report, giving particular emphasis to the effect of the merger on competition at slot-constrained airports such as LaGuardia's Airport in New York:

I've several times criticized the Department of Transportation for its failure to disapprove a single airline merger, even though in three cases the Justice Department recommended it do so. I am delighted to report now that a D.O.T. Judge, Ronnie Yoder, has just written a powerful decision recommending the disapproval of the proposed merger of USAir and Piedmont.

I have a personal interest in this one. My home town is served by only those two carriers. The same is true when, as often happens, I drive to Syracuse to take a flight to LaGuardia.

I was invited to prepare testimony in opposition to the merger, and finally decided that it would be a waste of time in view of the Department's track record and the fact that Justice decided not to oppose this one. I am ashamed of myself now for not having persevered.

One problem that gave me pause was that on several routes like Syracuse-New York City, there's an active competitor—Continental—flying out of Newark airport. I knew in my bones that for many fliers, Newark is a poor substitute for LaGuardia, but lacking the resources to prove that these are separate markets, I thought my bones wouldn't be sufficient evidence.

As Judge Yoder points out, however, even if a lot of passengers would willingly shift from LaGuardia to Newark if the fares got too high, the sophisticated fare differentiations that the airlines have developed would still enable a combined USAir-Piedmont to exploit business travelers, most of whom prefer LaGuardia even if there's a big price difference, while using restictive discount fares to hold onto the price-conscious travelers who would be more likely to shift.

A second problem was my feeling that the only way to convince D.O.T. that they had made a mistake in the past would be studies of what has happened to fares and service into and out of the hubs like Minneapolis, Detroit, St. Louis, that have become so highly concentrated because of previous mergers. To my astonishment, the people at Antitrust told me that they had not done any studies of that experience—so Justice could say with a straight face that it had no evidence on the basis of which to oppose this one.

Fortunately, other witnesses convinced the Judge on this point. So, three cheers for them and for Judge Yoder. Now, let's wait and see what the Department of Transportation does.

I'm Alfred Kahn.●

PRETORIA

● Mr. WEICKER. Mr. President, I ask that an editorial by Randall Robinson, the executive director of Transafrica, that appeared in the October 5, 1987, edition of the New York Times be printed in the RECORD.

The text follows:

TURN UP HEAT ON PRETORIA

(By Randall Robinson)

WASHINGTON.—President Reagan's report to Congress on what progress South Africa is making toward ending apartheid could consist of one word: none.

After one year of United States sanctions, Pretoria has demonstrated no willingness to dismantle apartheid. The state of emergency remains in force. State terrorism has not abated. The ruling white minority of 4.5 million has yet to seriously contemplate giving the vote to the black majority of 27 million. With Nelson Mandela and most black leaders locked away, President P. W. Botha plans no negotiations that might allow a democratic outcome.

Mr. Reagan says the sanctions—enacted in the Comprehensive Anti-Apartheid Act of 1986, over his veto—have not achieved their intended results. No one who supported

them thought they would show measurable results by today.

If Pretoria is to yield, tough multinational sanctions are required.

There are three reasons why the Reagan sanctions have not worked: The Administration, always opposing punitive sanctions against South Africa, eviscerated the law by seriously diluting some measures and ignoring others. To begin with, the sanctions were never strong enough. A year is far too short a time to evaluate the impact of sanctions.

Historically, economic sanctions have the greatest impact when applied multinationally, with the strongest possible bite. With some understanding of this, Congress, in the act, said the President or Secretary of State "should convene an international conference of the other industrialized democracies in order to reach cooperative agreements to impose sanctions . . . to bring about the complete dismantling of apartheid."

Congress, believing Western cooperation would maximize the impact of economic sanctions, allowed the Administration 180 days to convene a conference of our allies. The Administration took no action.

Last Feb. 10, a special advisory committee set up by the Secretary of State George P. Shultz reported that "the urgency of the situation demands" that a "multilateral program of sanctions should be put in place unless the South African Government releases all political prisoners, unbans the African National Congress and other political parties and terminates the State of emergency." Ten days later, in the United Nations Security Council, Washington and London vetoed a resolution calling for international adoption of American sanctions.

The law's bilateral provisions have also been diluted. Congress intended to bar importation of all South African uranium; the Administration opened a loophole to permit most of the uranium trade to continue. Congress intended to ban the import of iron, steel and iron ore; the Administration exempted certain alloys, significantly reducing the impact of these sanctions.

The Botha Government will seriously consider negotiations with South Africa's black leaders only if it finds itself tightly wedged between high-pressure and complex internal and external forces. Internal pressures have been building since 1984, but external pressure, largely diplomatic and economic, has lagged behind.

Vigorously enforced, American sanctions would stop only about 25 percent of what America buys from South Africa. When our sanctions are combined with those of the European Community and Japan, only 9 percent of South Africa's exports are affected. To salvage any chance for democracy, the world must quickly move toward global economic sanctions.

Pretoria will respect nothing less; overwhelmingly, black South Africans want nothing more. Washington must lead: We should ban all trade and investment, ending first the indefensible supply of vital products that American oil companies provide to the military and police.

In May 1968, the Security Council imposed comprehensive economic sanctions against Rhodesia. Prime Minister Ian Smith survived war at home and world pressure for 11 years before giving away to negotiations. Against the toughest sanctions, Pretoria could possibly hold on as long. America and the world simply must find the grit to take the only workable course, and steadfastly hold on.●

AN OPEN CONVENTION FOR THE DEMOCRATS

● Mr. MOYNIHAN. Mr. President, every so often one of our more experienced public servants speaks out and reminds us from whence we came. Such is the case with Stewart Udall.

Mr. Udall, a former congressman and Secretary of the Interior under two Presidents, writes in yesterday's Washington Post about the merits of an open Presidential convention. It is a thoughtful piece. Mr. Udall correctly points out that an open convention can provide precisely what the present primary system does not—the ability to pick the strongest ticket to represent a party. Those attending a national convention represent every faction of their party, with most of these people committed primarily to one cause; electing a President.

Commenting on the 1920 Presidential convention, Harry Daugherty, campaign manager for Warren G. Harding, predicted that the convention would be decided by a group of men who "will sit down about two o'clock in the morning around a table in a smoke-filled room." As students of history will tell you, Warren Harding won on the 10th ballot and went on to the Presidency. The convention was decided by ballots, not in the proverbial smoke-filled room. A 1988 open convention would be likely to produce a similar result.

It is also important to note, as Mr. Udall does, that an "old-fashioned, open-convention does not, ipso facto, rule out the possibility that a candidate who does not do well in next spring's primaries might win the nomination." Rather, it will help ensure that a party will be able to unite behind a single, strong duo before the American people.

The article follows:

AN OPEN CONVENTION FOR THE DEMOCRATS—IT MAY BE JUST THE TONIC THEY NEED

(By Stewart L. Udall)

A large roster of hard-to-distinguish candidates—and the splintering that seems certain to characterize the South's Super Tuesday primary next March—will propel the Democratic Party into an open convention in Atlanta next July.

Having observed the gyrations of the nominating process for 40 years (with roles ranging from that of a precinct committeeman in Tucson in 1948 to the campaign manager of a candidate for president who slogged through most of the 1976 primaries), I am convinced that such a development would be a boon for my party. It would refurbish the process that produced Franklin D. Roosevelt, Harry Truman, Adlai Stevenson and John F. Kennedy by empowering the leaders of the party (including, of course, all of the candidates who have garnered delegates in the caucuses and primaries) to use their collective wisdom and pick a winning ticket just before the big race begins next year.

A convention in which the outcome is not preordained is long overdue. In addition to an overemphasis on primaries, which often activate only a small fraction of the eligible electorate, one of the mistakes made by those who reformed the old system in the 1970's involved new rules that limited the influence of elected officials. Yet any astute member of Congress or governor or mayor has a finger on the local political pulse and has a network of supporters who can sometimes tip the scales in a close presidential contest in a particular state.

I witnessed the impact of the drastic reforms the Democrats adopted before their 1972 convention when I went with Sen. George McGovern to the governors' convention in Houston just after he had defeated Hubert Humphrey in the winner-take-all California primary. These rules (crafted in part by McGovern himself) had largely dealt the governors out of the nominating process. As a consequence, they were bristling with hostility toward the South Dakota senator, and their attitudes in June told me that, barring an electoral miracle, McGovern would lose overwhelmingly in November.

One of the curious things about the myth of the smoke-filed room—the myth that it is somehow unrepresentative and undemocratic—is that the history of the past half century does not support the thesis that the old system was manipulated by self-seeking power brokers. The Democratic conventions in 1952, 1956 and 1960 (and the remarkably open Republican conventions that nominated Wendell Willkie in 1940 and Dwight Eisenhower in 1952) are cases in point.

Several prominent senators, the elder statesman Averell Harriman and Vice President Alben Barkley sought the Democratic nomination in 1952. However, once the Republicans had nominated Gen. Eisenhower, Speaker Sam Rayburn and many other party leaders were convinced that the Democrats would lose the White House unless they nominated their best-qualified candidate.

Before the convention a consensus emerged among these leaders that the governor of Illinois, Adlai Stevenson, had exceptional talents for leadership and should be nominated. But the little-known Stevenson did not want the nomination, and the 1952 gathering in Chicago began as an exciting, wide-open convention. Because of unrelenting pressure from Rayburn and other party wise men, Gov. Stevenson finally agreed to run. Stevenson was an eloquent spokesman, and although he lost the 1952 election he ran such a strong race that the "power brokers" of his party readily renominated him four years later.

Kennedy's nomination in 1960 pivoted around a different scenario, but his political exercise also refutes the idea that an open convention is bad for a party and for the country. JFK prevailed in a few primaries to demonstrate that his Catholicism was not an insurmountable handicap. But he won the big prize through a strategy that operated on two levels: he persuaded a half dozen big-state governors to support him, and he put together an enthusiastic grassroots organization that lined up delegates in most of the nonprimary states. The final votes Kennedy needed to win on the first ballot were nailed down only a few hours before the 1960 convention began.

My hope for a return to rational, commonsense politics is not a pipe dream. A recent reform has already ensured that the Democrats' 1988 convention will be different: a rule change automatically awards delegate seats to 40 U.S. senators and 210 members of the House of Representatives. These

new minibrokers could serve as a balance wheel if there were an open convention. They know the strengths and weaknesses of all of the potential nominees, and their professionalism will rule out decisions influenced by images and image makers.

And let me end with a final caveat for the supporters of the candidates already in the field—and for those governors and senators in the wings nursing a dose of Adlai Stevenson's reluctance. An old-fashioned, open convention does not, ipso facto, rule out the possibility that a candidate who does well in next spring's primaries might win the nomination. Nor does it necessarily imply that a noncandidate will be drafted by the convention.

The spontaneity of an open convention—and the opportunity it offers to pick the strongest ticket just before the race begins—could be just the tonic the Democratic Party needs to win in 1988.●

OLYMPIC COMMEMORATIVE COIN ACT

● Mr. D'AMATO. Mr. President, I am pleased that H.R. 2741, the Olympic Commemorative Coin Act, passed yesterday in the Senate by unanimous consent. H.R. 2741, introduced by my distinguished friend from Illinois, Congressman FRANK ANNUNZIO, passed in the other body in August. I am proud to have introduced the Senate companion bill S. 1587. This bill authorizes the minting of commemorative coins to support the training of American athletes participating in the 1988 winter and summer Olympic games.

Across America, thousands of our finest athletes are in training today for the 1988 U.S. Olympic teams. Many of them are making great personal sacrifices in the sole hope of representing the land they love at the highest level of international competition. Thousands of hours of lonely practice must be put into the goal of standing on the victory platform while the American flag is raised and our national anthem is played.

The costs of participating in the Olympic games are rapidly escalating, but this bill can help our athletes to attain their dreams. H.R. 2741 will authorize 1 million gold and 10 million silver coins to be sold directly to the public, and will help raise millions of badly needed dollars. A surcharge attached to the coins will go directly to the U.S. Olympic Committee to support local athletic programs and erect facilities for athletic training.

On the behalf of America's amateur athletes, I thank my colleagues for supporting this legislation.●

PROTECTING OUR GROUND WATER

● Mr. BURDICK. Over the past 15 years, the Federal Government has made a major contribution to protecting the quality of our environment. We have enacted landmark legislation including the Clean Water Act, the Clean Air Act, and the Superfund statute.

This legislation has been remarkably effective in correcting some of the most serious and obvious pollution problems in this country. I am proud to say that the Senate Environment and Public Works Committee, which I now chair, played a major role in putting into writing these laws and making amendments as necessary.

I am concerned, however, that we have neglected a vital element of our natural environment—our ground water resources. Ground water is so widely used and so essential to life that we sometimes take it for granted. It is time to recognize and respond to the problems of ground water contamination.

Ground water is a resource of tremendous value and importance. Half of our population and almost everyone living in rural areas rely on ground water for drinking water.

In my home State of North Dakota, over half of the population relies on ground water for domestic supply. It is the only source of water for thousands of farm families and their livestock.

Almost every town in North Dakota depends solely on ground water as a source of supply. Increasingly, ground water is being used to irrigate crops and grassland during low rainfall periods.

This crucial resource is threatened with contamination on a wide scale. Recent surveys by the Environmental Protection Agency and other organizations have identified ground water contamination problems all across the United States.

A study by the Office of Technology Assessment found that ground water contamination has occurred in every State and is being detected with increasing frequency. It concluded that the potential effects of contamination are significant and warrant national attention.

A report by the Academy of Natural Sciences cites a wide range of ground water contamination sources including hazardous waste disposal sites, solid waste landfills, leaking underground storage tanks, and application of pesticides and fertilizers. Contaminants from these sources are known to cause adverse health and environmental effects and to impose large costs in treatment and remediation.

The EPA acknowledges that sufficient information is available to raise concerns that a widespread problem may exist.

We must not ignore these warnings. Ground water is of vital importance and we have a duty to act before the problem becomes unmanageable.

I am pleased to report that we have already made some progress toward developing legislation to protect ground water. Earlier this year, I introduced S. 1105, legislation to expand and strengthen research of ground water and ground water pollution problems.

Research on ground water is now underway at several Federal agencies. The current research program is inadequate in several respects, however. We need to know more about the locations and amounts of ground water, the health effects of ground water contaminants, the causes and extent of contamination, and the most efficient methods of preventing and controlling contamination.

My legislation is intended to expand the national ground water research program and to clarify and coordinate the efforts of the Federal agencies involved in this work.

The Environment and Public Works Committee will also consider legislation addressing specific sources of ground water contamination. I recently joined with Senator LEAHY, the chairman of the Senate Agriculture Committee, in introducing a bill to reduce the levels of agricultural nitrogen in ground water. The legislation asks our agricultural producers, fertilizer manufacturers, scientists, and others to work together to develop methods of reducing the levels of agricultural nitrogen in surface water and ground water.

The bill establishes an Agricultural Nitrogen Best Management Practices Task Force. The task force will research the use of agricultural nitrogen in crop production and develop educational and training materials for farmers.

The task force would include representatives from a wide variety of Federal agencies. Because we must rely on our farmers to implement best management practices for applying agricultural nitrogen, the bill includes a farmer-representative on the task force.

Pesticides are also a source of ground water pollution. Several of my colleagues on the Environment Committee have introduced bills addressing the problem of pesticide contamination of ground water. I expect that we will be working closely with members of the Agriculture Commmittee on this issue in the coming months.

Another major source of ground water contamination are solid waste landfills located in virtually every community across the country. This year, the Environment Committee will begin consideration of amendments to the Solid Waste Disposal Act. As part of this effort, we will review the entire issue of municipal solid waste disposal. This includes waste recycling and environmentally safe incineration.

These initiatives are designed to improve ground water research, to protect ground water from high nitrogen levels and pesticide contamination, and to prevent ground water contami-

nation from landfills. But these individual efforts are not a sufficient response to the ground water pollution problem. We need legislation providing a comprehensive framework for protecting ground water. I hope that my committee can introduce comprehensive ground water protection legislation sometime early next year.

Such comprehensive legislation must meet several objectives. It must set clear goals for protecting this resource. It must build on existing ground water programs. It must balance Federal and State responsibilities. And, it must be adequately funded.

We face a long road in developing the specific ground water bills already introduced and in drafting more comprehensive ground water protection legislation. But I am optimistic that we can put together a winning combination for ground water protection.●

TAX PENALTY ON CAPITAL GAINS

● Mr. BOSCHWITZ. Mr. President, I rise to speak on the issue of capital gains, specifically the negative side effect of the Tax Reform Act of 1986 on capital gains. Although I strongly endorse the Tax Reform Act of 1986 because it is a landmark attempt to introduce equity into the tax system, I continue to believe that the very large increase that bill imposed on capital gains is not in the best interest of the country.

As my colleagues recall, a primary goal of tax reform was to provide uniform tax treatment of alternative investment options. The objective was to let the market, not tax considerations, influence investment decisions. Regrettably, the goal of tax equity has not been fully achieved. The tax penalty on investments that return capital gains discourages such investments. This reflects the fact that capital gains are both voluntary and risk oriented. When rates are relatively high, there is a tendency to hold assets or not to invest. When rates are lowered, assets turn over more quickly and are put to more productive and risk oriented uses that generate additional tax revenues.

Mr. President, I ask to have a report prepared by the American Counsel for Capital Formation entitled "The Tax Penalty and Capital Gains," authored by J. Gregory Ballentine, inserted in the RECORD following my statement. As set forth by Mr. Ballentine, the effect of the Tax Reform Act of 1986 has been to increase substantially the tax rate on capital gains.

The tax consequences indentified by Mr. Ballentine result from: First, removal of the partial exemptions for capital gains; second, continued limits on the deductibility of capital losses; and third, elimination of income averaging.

In addition to documenting the tax penalty on capital gains under the Tax Reform Act of 1986, Mr. Ballentine highlights one of the more pernicious consequences of the act. According to Mr. Ballentine, capital gains for middle income taxpayers tend to be bunched into a single year, often the result of the sale of a small business that the taxpayer built over a lifetime. This forces taxpayers into a higher tax bracket. Prior to 1986, this form of bracket creep was offset by the capital gains exemption and income averaging. Furthermore, these capital gains most often reflect the accumulation of profits over many years and those profits were already taxed once.

My proposal to reinstate a reduced capital gains tax rate, S. 444, relies on a two-tiered approach. It utilizes 1 and 3 year holding periods with a 40 and 60 percent tax exclusion, respectively. My approach may not be the only way to attack the problem. We must, however, address the negative consequences of our failure to provide a stimulus for voluntary decisions triggering capital gains. It is important for my colleagues to understand this issue and it is with that goal in mind that I appear before you today.

The report follows:

THE TAX PENALTY ON CAPITAL GAINS

(By J. Gregory Ballentine[1])

INTRODUCTION

Much was said in the debate on the Tax Reform Act of 1986 about "leveling the playing field," "tax equity," and the "efficiency gains" of a low rate broad-based income tax system for economic growth. That was, to large extent, the rationale for the capital gains provisions of the 1986 act, which provided for the taxation of capital gains as ordinary income. In "The Tax Penalty on Capital Gains," a just completed study by Dr. J. Gregory Ballentine, the author challenges the economic case for the taxation of capital gains as ordinary income. To further a constructive debate on the economic impact of tax policy, the ACCF Center for Policy Research is pleased to summarize below the findings of the study.

THE FULL TAXATION OF CAPITAL GAINS: A FAILURE OF TAX REFORM

By its own standards of success, the 1986 tax reform effort clearly failed with regard to the taxation of capital gains. Perhaps the most compelling goal of tax reform was to provide uniform tax treatment of alternative investments. This was the goal behind the call for a "level playing field," to let the market, and not tax considerations, determine investment decisions. In fact, tax reform has tilted the playing field against many investments that return capital gains. Further, the tax penalty on most realized capital gains will cause tax considerations to become a major factor in many investment decisions.

In this report, the capital gains tax changes in the 1986 Tax Reform Act (TRA) are evaluated with respect to the standards generally endorsed by the proponents of the act. Those standards essentially call for a passive tax system that treats all investments uniformly, rather than a tax system that actively encourages investment in order to spur economic growth. A reduced tax rate on capital gains provides an important incentive for long-term, innovative investments that are central to economic growth. While the proponents of the 1986 act rejected the need for investment incentives, an overall evaluation of the tax treatment of capital gains should recognize the beneficial effect on investment incentives of a capital gains exemption.

The tax treatment of capital gains under TRA fails against even the limited criteria of a passive tax system that stresses neutrality. Instead, the Tax Reform Act of 1986:

Imposes an implicit surtax of up to 29 percent (compared to the tax rate on ordinary income) on capital gains assets held for an average period;

Levies a surtax of up to 50 percent on high risk capital assets held for an average period;

Raises the cost of capital for a capital asset by 12 percent compared to that for an investment yielding current income.

The surtax on capital gains is described here as "implicit" because effective tax rates on capital gains, far in excess of those on ordinary income, are not specifically mandated by TRA. Instead, the implicit surtax on investments that yield capital gains results from three factors: (1) the removal of any exemption or rate differential for capital gains; (2) the continued limitation on the deductibility of capital losses; and (3) the elimination of income averaging.

Such implicit tax penalties clearly violate the neutrality criteria of the Tax Reform Act. Certainly, had they been considered as explicit tax surcharges, this failure would have been obvious. If current law is evaluated relative to an activist tax system intended to encourage investment and growth, the over taxation of capital gains fails even more clearly.

Improved tax equity was another central goal of tax reform. During the debate over reform, there was a broad consensus that different families with similar incomes should not be taxed differently because one family took advantage of tax preferences (e.g., so-called "shelters") while another did not. Reform was supposed to result in greater tax equity by insuring that taxpayers with identical incomes are taxed similarly.

The over taxation of capital gains, and the fact that capital gains tend to bunch income in a single year, lead, however, to large differences in the tax treatment of similar middle income taxpayers who earn capital gains will be forced into higher tax brackets in the year they realize gains. This will cause them to pay much higher taxes than similar taxpayers who invest in ordinary income producing assets (e.g., in bank C.D.s).

[1] Dr. J. Gregory Ballentine, a member of the Board of Directors of the American Council for Capital Formation Center for Policy Research, is a principal and the national director of tax analysis of the accounting firm of Peat, Marwick, Main & Co. This report is one of a series of papers on capital formation issues published by the ACCF Center for Policy Research to further public debate on economic policy. For additional copies of the special report or for copies of the complete study, contact the ACCF Center for Policy Research, 1850 K Street, NW, Suite 400, Washington, D.C. 20006, (202) 293-5811.

THE SURTAX ON CAPITAL GAINS INVESTMENT

The Tax Reform Act of 1986 fails to recognize that capital gains investments are inherently high risk and that realized capital gains include purely inflationary gains that are not income. For example, a taxpayer in the 28 percent tax marginal bracket pays a 29 percent higher tax on a capital asset held for 5 years than one which earns ordinary income and is taxed currently.

The combined effect of taxing inflationary gains and limiting the deductibility of capital losses leads to a severe over taxation of many investments that will earn capital gains. Thus, a taxpayer in the 28 percent bracket who realizes a gain on a high risk capital asset faces a surtax of 50 percent on an asset held five years. Larger surtaxes on high risk capital assets result from the fact that, while a capital gain is subject to full taxation, but losses are allowed only limited deductibility.

THE TAX PENALTY ON CAPITAL GAINS AND THE COST OF CAPITAL

Certain investments, by their very nature, will generate capital gains. This may be because of the kinds of assets purchased or the planned financial structure of the investment. An example of the latter case is the investment in a start-up company with the intent to sell all or a portion of the company in later years. By imposing a tax penalty on such investments, the TRA effectively raises the cost of capital for these investments. For example, if inflation is 4 percent, a capital asset held for five years (the average holding period) must earn a real pretax rate of return of 7.76 percent in order to earn a real after tax rate of return of 5 percent. In contrast, the real pretax rate of return (or cost of capital) required on an investment yielding a 5 percent real return and currently taxed on its real income is only 6.94 percent. Thus, the cost of capital for an asset yielding capital gains is 12 percent higher than that of an investment yielding current income (7.76 percent is 12 percent larger than 6.94 percent). In a similar vein, the cost of capital for a high risk capital asset held 5 years may be as much as 24 percent higher than that for an investment whose yield is taxed as ordinary income.

THE SPECIAL TAX PENALTY ON MIDDLE INCOME INVESTORS

In addition to the general tax penalty on capital gains caused by the TRA, many middle income investors will face an extra penalty. This arises because realized capital gains income tends to be bunched in a single year, forcing taxpayers into a higher tax bracket. Before the 1986 act, this tendency of capital gains to force middle income taxpayers into a higher bracket was mitigated by the capital gains exemption and by income averaging.

The Tax Reform Act eliminated these protections. A middle income taxpayer who realizes capital gains in a given year and, as a result, is forced into the 28 percent or 33 percent tax bracket may easily find that their tax rate on capital gains is double their tax rate on ordinary income. For example, a taxpayer who is moved into the 28 percent bracket from the 15 percent bracket due to the realization of a capital gain faces a surtax of 89 percent on an asset held for 5 years. This kind of arbitrary tax penalty on middle income investors is inconsistent with the equity goals of tax reform. As with the non-uniformity of the general tax penalty on capital gains, this penalty represents a clear failure of tax reform.

CONCLUSION

While it is difficult to estimate the overall effect of the capital gains surtax on productivity and economic growth, it is clear that tax equity and tax uniformity make a valuable contribution to economic welfare. However, the Tax Reform Act of 1986 fell well short of achieving these goals. Indeed, the current tax penalties on various capital gains investments and capital gains investors represent a clear failure of tax reform. Those penalties will harm the economy by worsening tax equity and tax uniformity.●

PHASE 1 OF STAR WARS WILL WASTE BILLIONS

● Mr. KERRY. Mr. President, the SDI Program has turned a significant corner. Last month, Secretary of Defense Weinberger decided that six technologies in SDI were ready to move from a research into a testing stage, termed "validation and demonstration," looking toward the deployment of a two-tier nationwide ballistic defense, termed phase 1 by the Star Wars office. Phase 1 would by design only be intended to stop less than 20 percent of Soviet strategic missiles. As a result, it cannot protect our population should any nuclear war take place, but is merely part of a general strategy of deterring nuclear war. Still, even with this limited goal, the forward movement of phase 1 potentially represents the most fundamental shift in national defense strategy since the Soviet Union first developed nuclear weapons.

There are many questions about phase 1 which must be answered before we hurtle toward deployment of such systems, including such fundamentals as whether partial defenses against nuclear missiles could increase the risk that a nuclear war might take place. But without reaching such fundamental issues, we should be cautioned by what some of the Nation's physicists are telling us about the limits of some of the technologies being developed for the Star Wars Program for phase 1.

To be specific, we are being told unequivocally by physicists from Harvard and Princeton that space based interceptors, such as are at the heart of phase 1 development, cannot be cost effective.

In a paper recently completed by David Spergel of Princeton's Institute for Advanced Study and George Field, of Harvard's Department of Astronomy, the authors conclude that the United States will have to spend at least $3 for space based interceptors for every $1 the Soviet Union spends on new missiles. Moreover, the authors have concluded that it would cost the United States $8 to $70 to counter every $1 the Soviet Union spends on fast-burn ICBM's, and that space based interceptors would be useless against Soviet missiles with burn times of less than 60 seconds.

As the authors note, this system would therefore fail to meet the criteria, first enunciated by Ambassador Paul Nitze, that phase 1 of SDI be cost-effective—as well as survival—before it could be deployed.

These scientists noted that even these unfavorable results were reached through making assumptions that were favorable to the defense—based on assumptions that space-based interceptors would be 90-percent effective in killing their assigned targets, and assuming that the Soviets adopted no countermeasures that would allow its missiles to evade the space-based interceptors. For example, the model ignored the possibility that the Soviets could locate all of their missiles at one site, increasing the absentee ratio of space-based interceptors by a factor of 3, trebling the cost of the defensive system by trebling the number of space-based platforms required.

Nevertheless, the scientists concluded that the boost-phase defense advocated for phase 1 would not be cost effective against SS-24's or SS-25's, and would be even less cost effective against fast-burn boosters and totally ineffective against boosters with burn times of less than 65 seconds.

As the scientists concluded, deployment of space-based interceptors such as contemplated by phase 1, "could result in an arms race that is economically unfavorable to the United States."

I ask that the text of the article by David Spergel of the School of Natural Science, Institute for Advanced Study, Princeton, and George B. Field, of the Department of Astronomy, Harvard University, be printed in full in the RECORD.

The material follows:

ARE SPACE BASED INTERCEPTORS COST EFFECTIVE?

(David N. Spergel and George B. Field)

ABSTRACT

Space-based interceptors (SBIs) advocated by the Marshall Institute as weapons forming the first tier of a ballsitic missile defense system are not cost effective against Soviet deployment of either their new missiles (SS-24 and SS-25) or fast-burn missiles. The U.S. will have to spend at least $3 for SBIs for every $1 the Soviet Union spends on new SS-25s. It will cost the U.S. at least $8-$70 to counter every $1 the U.S.S.R. spends on fast-burn ICBMs. SBIs are completely useless against ICBMs with burn times less than 60 seconds.

There has been growing discussion of the early deployment of SDI ("Star Wars") weapons based on current technologies. A recent report by the Marshall Institute (1) discusses the near-term deployment of a three-layered system. The first layer attacks the ICBMs in their boost phase with space based kinetic kill vehicles (SBKKVs or more simply space based interceptors [SBIs]). The SBIs would be deployed on satellites in a 7-year program beginning in 1994. The second (ERIS) layer consists of ground-based kinetic energy weapons that attack warheads at the end of midcourse. The ter-

minal defense uses HEDI missiles to intercept incoming warheads during reentry(1).

One of the many questions that must be answered positively before deploying any system is: Will it be cost effective? Can the Soviets build new missiles that will overwhelm the defensive system at a lower cost than the U.S. can upgrade its system to meet the new Soviet threat? The President's Strategic Defense Initiative(2) released by President Reagan on 28 December 1984, states "the defensive system must be able to maintain its effectivness against the offense at less cost than it would take to develop offensive countermeasures and proliferate the ballistic missiles necessary to overcome it" (2). Ambassador Paul Nitze has emphasized cost-effectiveness as a necessary condition for SDI deployment(3).

This paper considers the cost of countering the Soviet Deployment of additional missiles, such as the new SS-24's and SS-25's (whose boosters burn for about 3 minutes) as well as "fast-burn" missiles with burn times as short as 1 minute. As SBIs are effective against missiles only during boost phase, deployment of missiles with shorter burn times requires the defense to orbit more SBIs. Although the Marshall Institute recognized that shorter burn-time missiles pose a threat to their proposed defensive system(1), this paper shows that they severely underestimated the number of SBIs required to counter the threat.

Blechman and Utgoff (4) assert that the Soviets will disperse their ICBMs on mobile launchers to assure survivability. They go on to assume that the launchers will be dispersed over a large fraction of the Soviet land mass. Since under this assumption, a satellite carrying SBIs is within range of a Soviet booster during a large fraction of its orbit, relatively few SBIs are needed to counter each new Soviet ICBM in their calculation.

We find that such wide dispersal is not required to assure survivability. If the Soviets deploy their mobile launchers at a density of 1 ICBM per 400 square kilometers, then 10 warheads fired at each launcher would destroy at most 50 percent of the force (5). The U.S.S.R. could deploy 1,000 ICBM's in an area of 400,000 km² (less than 2 percent of the area of the Soviet Union) and be certain that a significant fraction of its ICBM force could survive a U.S. first strike.

The Soviet Union will likely deploy its new missiles at a small number of sites, as it does do now: Soviet Military Power (6) lists 3 sites for the new SS-25 missiles, 4 sites for the SS-19's and 6 sites for the SS-18's. We will assume that additional SS-24's, SS-25's, and fast-burn missiles will be deployed and dispersed over fields of radius 200 km at 5 different sites to minimize the effectiveness of a SBI boost-phase defense, while allowing the Soviets to attack a range of U.S. targets. In the computer simulations described in Appendix I, we find that it is advantageous to the Soviets to locate some of these sites as far north as possible. The Murmansk region at 69° N would be a plausible new site. We shall assume that the Soviets deploy their missiles at bases at latitudes 50°N, 55°N, 60°N, 65°N, and 70°N. The calculation is insensitive to the longitude of the bases. As discussed above, 300 ICBM's could be deployed at any of the five sites with little risk to survivability: a U.S. strike with 10 warheads attacking each mobile ICBM launcher would expose the average launcher to an overpressure of only 10 p.s.i., since there would be 400 km² available to each launcher. Alternatively, the Soviets could defend hardened silos with ABM's.

In 1980 the Soviet Union deployed 250 new ICBMs (7). For the purposes of illustration, we assume that the Soviets will respond to the build-up of U.S. missile defenses by deploying new ICBM's in the 1990's at comparable rates, and calculate the number of new SBIs needed to counter the 250 new missiles deployed each year.

Several possible Soviet missiles should be considered. In the near term, the Soviets are likely to continue to deploy SS-24 and SS-25 missiles whose burn times are comparable to those of the MX missile (3 minutes) rather than older, slower (5 minute) SS-18 missile (7). As the Marshall Institute has noted, the Soviets could well develop and deploy fast-burn boosters with even shorter burn times: 120, 90 or even 60 second burn times (1). The Soviet "Gazelle" anti-ballistic missile demonstrates the feasibility of this technology (8). Studies by both Martin Marietta (9) and Lockheed (10) suggest that fast-burn rockets can be built whose boost-phase ends at 80-km altitude with little cost in payload size or missile accuracy. Such low-altitude fast-burn rockets would evade all of the SBIs (8,11).

The Marshall Institute (1) posits SBIs that accelerate at 20g, achieving a terminal velocity of 6 km/s in 30 s. They assume that these vehicles could achieve a kill probability of 90 percent (1). As advocated by the Marshall Institute, we assumed decentralized battle management. Because of random assignment of targets by such a battle management system, achieving the 76 percent effectiveness envisioned by the Marshall Institute will require a minimum of 1.6 SBI's within range of each missile (see Appendix II).

Appendix I describes how we found the optimal configuration for deploying the SBI's. Under the assumption that first generation SBI's would be unable to track and destroy the post-boost vehicles, which emit no booster flame, we computed the absentee ratio for boost times ranging from 60 to 300 seconds. Table I lists these absentee ratios. We also tabulate the minimum number of SBIs needed to counter the 250 new missiles deployed at the 5 bases each year. The Marshall Institute estimated that the cost of an SBI, including the cost of launch, its share of the cost of its space platform, and 10 years of operations and maintenance, is $6 million (1). Using this estimate, we computed the annual U.S. expenditure needed to counter the 250 missiles. The penultimate paragraph explains why the figures listed in the last column of Table I are conservative cost estimates.

Estimates for Soviet missile costs vary. If the price tag of an SS-25 is comparable to that of a mass-produced MX missile [$50 million including operations and maintenance(11)], then 250 new SS-25's will cost the Soviet Union $12.5 billion. Table I indicates that the U.S. must spend $42 billion to counter the new threat, resulting a cost exchange ratio of 3:1 in favor of the Soviet Union. If the Soviets move to fast-burn missiles, the cost exchange ratio becomes even more advantageous for the offense. Estimates for the cost of a fast-burn missile (including launcher) vary from $10 million (12) up to $90 million (1), so that the Soviets could add 250 new missiles to their missile force each year for $2.5-$22.5 billion. If the Soviets deployed missiles with 90 second burn time, the U.S. would have to spend $180 billion annually for the SBIs required to counter this new force, resulting in a cost exchange ratio of 8:1 to 70:1 in favor of the Soviet Union. Soviet missiles with 60 second burn time would be invulnerable to attack (8).

In making these cost estimates, we made several assumptions that were favorable to the defense. We accepted the Marshall Institute estimate that SBI's would be 90 percent effective in killing their assigned targets. If a more realistic estimate of 50 percent effectiveness is adopted, then the number of SBIs needed to counter the Soviet threat would increase by 80 percent. We ignored the possibility of counter-measures that would enable the booster to evade many of the SBIs. If the Soviets located all of their missiles at one site, the absentee ratio would increase by a factor of 3, trebling the cost of the defensive system. We assumed that the interceptors would be fired immediately after the launch of the missile. Any delay due to clouds or system start-up time would increase the absentee ratio and therefore raise the system cost. On the other hand, if sufficiently sensitive sensors could be developed that enable SBIs to attack post-boost vehicles, then the absentee ratio would decrease and this would lower system cost. We assumed that the SBI system could defend itself against attack and and ignored the start-up costs associated with the system. We also ignored the cost of improving the other layers to handle to additional threat posed by the new warheads that leak through the boost phase layer.

We conclude that the boost-phase defense advocated by the Marshall Institute would not be cost effective against SS-24's or SS-25's. It would be even less cost effective against fast-burn boosters and totally ineffective against boosters with burn times less than 65 seconds. Its deployment could result in an arms race that is economically unfavorable to the U.S. Simple geometrical constraints pose a serious problem for any boost phase defense composed of SBI's. Two recent studies (8,13) agree with the conclusion of this paper that the absentee ratio for SBIs attacking missiles with short boost times is very large. Furthermore, matching Soviet deployment of SS-24s, SS-25s, and fast-burn boosters will be very costly.

ACKNOWLEDGEMENTS

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TABLE I.—MINIMUM COST OF COUNTERING SOVIET BUILDUP

[Dollars in billions]

Soviet missile (burn time)	Absentee ratio	Number of SBI's needed to counter 250 missiles	Cost of new SBI's
60s	(1)	(1)	(1)
90s	76	30,000	$180
120s	38	15,000	90
150s	24	9.600	58
180s	18	7,100	42
300s	5	2,100	13

[1] SBI's unable to attack missiles during boost phase.

INFORMED CONSENT: PENNSYLVANIA

● Mr. HUMPHREY. Mr. President, in this so-called information age in which

we live, it is indeed shocking to realize that many women are being denied proper information when it comes to abortion. Hundreds of letters sent to my office clearly show that abortions are being performed every day in every State with the patient uninformed about the risks, effects, and alternatives. These letters also show that many women have suffered from this lack of information—encountering common and devastating side effects from their abortions without a word of advance warning. This should not be allowed to continue, and indeed would be a major scandal if it were permitted in any other serious medical operation.

I urge my colleagues to take action to rectify this injustice by supporting my informed consent legislation, S. 272 and S. 273. The bills would simply require medical personnel to provide proper information to patients considering abortion before consent is acquired. Although the effects of abortion would still remain, at least women could make their decision based on the facts.

To conclude, I present two letters from women in the Commonwealth of Pennsylvania in support of informed consent. I ask that they be entered into the RECORD.

The letters follow:

PENNSYLVANIA,
March 31, 1987.

DEAR SENATOR HUMPHREY: I became pregnant, out of wedlock in 1977, ten years ago. When I expressed my reluctance in carrying the pregnancy, my family physician told me the local hospital could perform the abortion. He made it sound as simple as having a cavity filled. "Just like getting your period," he said. I believed him. After all, he was a physician. But I declined and decided instead to go to a city clinic where my family and myself could be protected from local tongues.

A friend made the arrangements for me in a Philadelphia women's health clinic. At the clinic, we were examined and then a group of about ten of us went into a room for "counselling." We were asked how we felt about what we were doing and showed some models of our anatomy. Then we were told about the "procedure." Not once did the word baby come up. I truly did not know, at that time, that the "mass of tissue" they spoke of had a beating heart and tiny hands and feet.

We were then ushered into rooms where we put on gowns and were given Valium 5mg to calm our nerves. It was dehumanizing. The procedure itself was horrifying. I was wide awake and the pain was excruciating. Then I was in a big room full of reclining type chairs to recover. I was shaking, had violent cramps and knew, at that instance, that I was deceived. They took something away from me. Something I could never get back. There was no way my "counselling" prepared me for this.

I was given a prescription for tylenol with codeine and sent on my way. I went home an empty person. I began to live a very self-destructive life style. I drank excessively. I over dosed on a prescription drug and alcohol. I hated myself, and I hated those people who deceived me and made it all look so easy and uncomplicated.

I did go on, a few years later, to forgive myself and straighten out my life. I married and now have three beautiful children. But nobody can take the place of the child I gave up. It's been ten years and I still continue to mourn. Many nights I cry myself to sleep. It's only in the last two years I can even talk about this.

Women should know all the facts. If they did, they might not make the same mistake I did ten long years ago.

Sincerely,

A CONCERNED MOTHER.

PENNSYLVANIA,
February 5, 1987.

DEAR HONORABLE GORDON J. HUMPHREY: God has been very merciful to me in giving me three children. My husband and I weren't married when I found myself pregnant. In order to not bring shame on our families, my fiance told me I *had* to have an abortion. I felt like a lamb being led to the slaughter. I put up such a fuss at the clinic. They told me it wasn't murder and was for the best. My child would have been ten years old this month. I have been in torment, pain and tears for the greatest sin of my life! Abortion is not an easy way out. It is the worst of all possible alternatives. I would give anything in this life to have walked out of that clinic with my baby.

If I could save just one precious soul and save a mother from the guilt and pain I must live with for the rest of my life, this letter, which is difficult for me to write, will be worth it.

"Before I formed you in the womb, I knew you. Before you were born I dedicated you." Jeremiah 1:5. A child is a soul at the moment of conception and don't let anyone tell you different. A child is God's gift to us and we should never destroy that gift.

Sincerely,

SHEILA RENE.●

IN HONOR OF HENRY FORD II

● Mr. DODD. Mr. President, today I rise in honor of Henry Ford II, a great American who passed away on October 2, 1987. I would first, however, like to express my sympathy to his daughter, Charlotte, who has been a good friend of mine for a number of years.

Perhaps as much as any citizen has in the 20th century, Henry Ford II personified the spirit and strength of America. While numerous facets of his business career fascinate me, I consider the beginning to be especially remarkable. Henry Ford II grew up with all the luxury money could buy and he knew that luxury would always be there. Comfort, however, could not dull the keen spirit that was inside this man. He joined the brave and patriotic of his generation and signed up with a Navy training school near Chicago, eager to join the U.S. Mediterranean fleet and accept the challenge posed by World War II.

The death of his father ended his fledgling career in the service and brought him home to Detroit. Concurrently, the once mighty Ford Motor Co. was struggling. A group of men were in the process of seizing control of the faltering family business. With the presidency of the company about to fall in the hands of a member of that group, Ford family members threatened to sell their shares.

In response to the family's complaints, Henry Ford I appointed his grandson, Henry Ford II, president of the Ford Motor Co. At only 28 years of age, the challenge of saving, reviving and, ultimately, returning to glory what had been one of America's most illustrious businesses stood imposingly before him.

Young Henry Ford II assumed the presidency and immediately displayed his unique strengths. First, he ended the speculation of an inner threat by firing the leader of the group. Second, he looked to the future and prepared to move the company forward.

At this time, Ford was losing about $9 million a month. Mr. Ford knew that heroic efforts were needed and he knew how to be the hero. He understood the importance of leadership, professionalism and ingenuity. Thus he brought in the whiz kids, a group that ran the U.S. Air Force during the war. Included in this set was Arjay Miller, Charles B. Thornton, and Robert McNamara. Mr. Ford also lured Ernest Breech from General Motors, which had been doing quite well during the Ford Co.'s decline. Like a skilled doctor, Mr. Ford was able to precisely diagnose the illness and prescribe the cure. The Ford Motor Co. soon became robust and dynamic again.

While his business success is legendary, I equally admire him for another tremendous accomplishment. During the late 1960's, race riots flared in urban areas throughout the United States. Detroit was particularly hard hit. In the midst of confusion and dissension, Henry Ford II emerged and became a leader on the question of race in America, calling for a new deal for blacks.

With few supporters, Mr. Ford forced the creation of the National Alliance of Businessmen, an organization devoted to solving the many problems caused by our Nation's most unfortunate history of slavery and segregation. With a determined sweep of his powerful hand, Mr. Ford changed the Ford Co. hiring, promotion, and dealer-selection practices that had excluded and stifled blacks.

When Henry Ford II demonstrated his patriotism, it was genuine. He loved America and what America stands for. I honor Henry Ford II today not for what he was, but for what he did and how he did it. One of our country's greatest strengths is that it engenders men and women who love life for its challenges, not only its rewards. Henry Ford II was one such person.●

ROBERT O'CONNOR—AN EXAMPLE OF LEADERSHIP

● Mr. SYMMS. Mr. President, in a recent issue of the Idaho Statesman, one of my State's most prominent leaders was featured in the "Newsmaker Forum." He is Robert O'Connor, currently the chairman and president of the Idaho Power Co., a major utility in the State.

I would like to recognize Mr. O'Connor for his example of service and leadership in Idaho for more than three decades. His is one of those bootstrap success stories that represent the American way.

Mr. O'Connor earned his degree in electrical engineering from the University of Idaho and began his career with General Electric in the early fifties. Within a few years he joined Idaho Power, and with rare tenacity and a love for hard work, he learned the business of providing people with electricity. In the process, he has become one of Idaho's greatest community leaders.

It's pretty obvious how he approaches life. No one gets to be chairman and president of a major utility without exceptional talent and a commitment to excellence.

The Statesman article gives a sample of Mr. O'Connor's leadership personality. I ask that a copy of it be included in the RECORD following my remarks, and I recommend its reading to my colleagues.

The article follows:

ROBERT O'CONNOR

Robert O'Connor is chairman and president of Idaho Power Co., the Boise-based electrical utility that serves much of the state. In this summer's Statesman Power in Idaho survey, O'Connor was ranked as the 13th most influential person in the state and the sixth most influential in commerce.

Among highlights of the interivew:

O'Connor expressed doubts that Western Power Inc., a group that includes multimillionaire industrialist J.R. Samplot, could achieve its plan of generating and selling hydro-generated electricity in the Southwest. He said legislation was planned for the next legislative session to regulate such ventures.

He said Idaho Power would have to ask the Public Utilities Commission for a rate increase if the company's appeal of an earlier PUC ruling is denied.

He said Idaho Power is "the pretty girl on the block" for a takeover, but that company policies and state regulation would prevent that from happening.

STATESMAN. What do you think about Western Power Inc.'s proposal to sell electricity and ship it to the Southwest over a transmission line?

O'CONNOR. I think it's very ambitious proposal. And there are many voices in the state becoming concerned about it, such as it would utilize our natural resources for export and would not be saved for our own customers here or the people who live here. So we are concerned about it.

Idaho Power is really powerless to do anything either way relative to Western Power. The governing entities that would do anything about it are (the Federal Energy Regulatory Commission), because they have to issue the license for such a thing. A need has to be shown to FERC, and (Western) would have to meet certain criteria, all of which are not state-controlled.

(Or) if the elected politicians chose to rise up against such an effort, those are the only ways in which anything could be done to encourage or discourage Western Power.

STATESMAN. Do you think Western Power's plan is feasible?

O'CONNOR. On the surface—and I don't know their plan—it looks like an extremely difficult economic thing to pull off. Because what has happened in the last two years is there have come on line in the desert Southwest 10,000 megawatts of new power. To put that in perspective, Idaho Power's capability is 2,800.

What this means then is that those tremendous costs are sitting there, they're fixed. Now you've either got to run the plant or just pay the fixed cost. . . . You might as well run it, sell it (the power) for whatever you can get for it.

Which translated means the price for power to be paid in the California market—which is where the markets are . . . the Californians then have the option of driving very hard bargains. Fixed power rates are being signed up for about 2.6 cents.

Now you can't build a power plant today . . . with the costs coming out at that price. It's going to come out anywhere from close to 6 cents to 10 cents.

How can you build on the North Fork of the Payette, Western Power or Idaho Power or anybody, pay the shipping costs, if there were transmission capacity and there is none available . . . how can you build for 6 cents and sell it on the California market for 2½? That's why it seems like a tough economic problem to me. Maybe Western Power has something that I don't know about.

STATESMAN. What might that be?

O'CONNOR. A miracle. I don't know what it could be.

STATESMAN. Would Idaho Power be interested in contracting with Western Power for transmission capability should they ever get a transmission system going?

O'CONNOR. We would look at any proposal. The problem is we don't have access to those markets ourselves. Only through the spot purchases as can be done through Bonneville Power Administration on the Pacific intertie.

We can't sign a firm contract. There are California cities that would sign with us today if we had a firm transmission access. . . .

BPA is trying to write a new intertie access policy. Only two companies have access to that intertie: those who bought into it in 1962, which is Portland General Electric and Pacific Power and Light. And they're not a bit interested in Idaho Power getting access to the intertie, because we're tough competition.

We want access, and we're not saying the government should build it and give it to us. We'll put up our money and we'll build and be a participant.

STATESMAN. Are you likely to get access?

O'CONNOR. That is where the real battle lies. And I can't answer you. The question will be decided in Congress.

STATESMAN. Idaho Power this year reported its lowest second-quarter earnings since 1980. If the company doesn't get rate relief from the state Supreme Court on this recent decision of the Public Utilities Commission, will the company come back and ask for another rate increase? (The company asked for $66 million in additional rates, but was awarded just $2.9 million.)

O'CONNOR. If that happens we wouldn't have much choice other than to do that. We hope that the Supreme Court will find that our petition to them includes reasonable requests for rate relief that the commission did not give.

And the most glaring example is off-system sales. In the rate case (the PUC) said, "OK, you will earn as a standard $68 million worth of off-system sales." We earned that one year, in 1984, highest water flows in recorded history. Highest off-system price for that power in history.

We're going to earn about $14 (million) to $20 million this year in off-system sales. And they said you'll earn $68 million and your rates are going to be based on that. And we don't believe that that's really very rational. And that's one of the points of contention that we have before the Supreme Court.

STATESMAN. What size increase would you ask for if you're not given relief in the Supreme Court?

O'CONNOR. I can't answer that because the way we ask for increases (is) we take the money we spent since the last rate increase. We haven't had any meaningful rate relief since 1982. This is 1987.

We're not going to get any rate relief for six years, even if the Supreme Court acts favorably. Because the Supreme Court won't set rates, they'll simply remand it back to the Commission.

STATESMAN. The complexion of the PUC is changing. (Two new commissioners, Joe Miller and Ralph Nelson took office on the three-member panel this year.) Does it look like the commission will be more favorable to Idaho Power?

O'CONNOR. Yes. We are very pleased with the business background of the two new commissioners. These are guys who had to go out and make their own living, one in a law firm, one in an accounting office. They bring a fresh, new look to the commission deliberation.

I think that you will see responsible orders out of the commission as a result of their new thinking being put into the equation.

That's not to imply that Perry Swisher is something that wasn't good.

STATESMAN. What is your evaluation of Perry Swisher? (Swisher is a longtime member of the panel who often has voted against Idaho Power.)

O'CONNOR. I think Perry is very well-intentioned as to what he's trying to accomplish. Perry has a lot of experience. He's seen and heard a lot relative to the national scene of regulation.

He can be a good influence on the commission and the new commissioners by way of his experience and background. So what we think is that with the help of these two new commissioners, Perry's decisions will be those that will be responsible as well.

STATESMAN. I'd like to ask you to look into a crystal ball. We're in a period of power surplus right now—hopefully we won't be as Idaho grows. How do you see the demand for power, and what would you see for rates doing for Idaho ratepayers?

O'CONNOR. We see the demand for power increasing at about 1.5 percent per year for the next 10 years.

We hope through things like The Idaho Co. (an economic development company spearheaded by O'Connor that would provide "gap" financing to growing companies)

that that will be increased and that we will see more jobs created and electricity consumed.

But the demand should be a steady rate of growth. We certainly don't expect anything like the '70s when we were growing from 5 to 8 percent per year.

As far as rates are concerned, once this present rate case is settled, the one that we have petitioned at the Supreme Court, we see rate stabilizaiton for a lot of years, because we're not building any new generation. It's all built, it's all paid for. We have an excess capacity of something over 200 megawatts.

STATESMAN. Six or seven years ago there was a lot of conservation talk, conservation programs. Idaho Power, of course, was wrapping water heaters, giving out 10-year, no-cost loans. Has that taken a back burner because the oil prices have dropped?

O'CONNOR. As a matter of fact, we are in a hearing before the PUC to determine whether or not those conservation practices are valid today. They were valid then under those circumstances.

Today's circumstances are quite different. It is our opinion that it costs too much. We think that we can demonstrate that the cost associated with that conservation to implement those programs is more than the cost to use our excess (power).

That is not to say that Idaho Power's position is abandon conservation, because we're not. Why spend money on it? We want to encourage people to insulate their houses well, use double windows and storm doors. It's a better thing for everybody.

STATESMAN. Given that situation, is it appropriate for the company to go out and encourage electrical use?

O'CONNOR. We certainly believe it is.

We reinstituted for the first time in eight to 10 years the loadbuilding program starting this spring . . . principally heat pumps.

We're promoting water heating through the easy-pay plan.

STATESMAN. Some financial analysts think Idaho Power is a prime candidate for a takeover. What's the company doing to prevent something like that?

O'CONNOR. The reason we're listed as a prime candidate is because Idaho Power is such a different power company. Two-thirds hydro. . . . I would point out to you we're the only non-union company west of the Mississippi. That means one guy can hammer a nail and saw a board and drive a truck in the same day. We don't need three crafts to do that, and that saves money.

I would point out to you that we reduced our forces down to bare bones through early retirement programs. I would point out to you that we've got a quality of employees second to none. . . . We've got outstanding employees who do their job well, not afraid of hard work.

So what we are is we're the lowest-cost producer of any private power company of the United States. Period. Now, that makes you very attractive; you're the pretty girl on the block towards the investor or the takeover artist.

Idaho Power put in what we call shark repellents. . . . You have to have two-thirds majority of the board to vote for a takeover. You have to have a vote of the common stockholders for the sale. We have a staggered board . . . so that a raider can't go in and buy enough controlling interest to put in his directors all at once and then pull the other directors out and run the company.

We also have, in Idaho, it takes the permission of the (Public Utilities) Commission for such a sale.

So I can't imagine that the Idaho commission would give up its hydro base to somebody to sell off to people in California who could use that low-cost energy.

So while we are the prettiest girl on the block, they can't get to us reasonably.

STATESMAN. If Idaho Power can't do much about Western Power and other outfits, what do you think the state should do to regulate these kind of folks?

O'CONNOR. That's going to be done in January. There's a lot of voices including Jim Jones who are planning on proposing legislation to regulate. Maybe the state can't regulate the licenses given by FERC, but they can regulate the transmission line out of there.

Then there's the water permit from the state Department of Water Resources, that has to be given. So we've got the state Department of Water Resources and we've got the state PUC and we've got the state Legislature and, of course, the governor.

O'CONNOR FACTS

Birth: Aug. 23, 1927, Uniontown, Wash.

Family: Wife, Jean; children, John, 31, Mary Sue, 34.

Professional background: General Electric Co. 1951-52; joined Idaho Power Co. as salesman, 1952; held various positions, including assistant to president, 1965-67; manager of western division, Payette, 1967-69; general marketing manager, 1969-70; vice president and assistant to president, 1970-72; vice president of administration, 1972-74; senior vice president of administration, 1974-76; board of directors, 1974-present; executive vice president and chief operations officer, 1980-81; president and chief operations officer, 1981-85; president and chief executive officer, 1985-present; chairman and chief executive officer, July 1986.

Education: Degree in electrical engineering from the University of Idaho. Professional Engineering License 1958.

Outside Interests: Golfing, hunting, fishing and spending time at cabin in Garden Valley.

Idaho Power facts:

Employees: 1,525; Customers: 275,000; Service area: Southern Idaho, eastern Oregon and northern Nevada.●

MISS MICHIGAN, OUR NEW MISS AMERICA

● Mr. LEVIN. Mr. President, this fall has been a mixed bag for loyal daughters and sons of Michigan. We were honored that His Holiness Pope John Paul II visited Michigan during his recent pilgrimage to the United States. We rejoiced at the Tigers amazing win of the American League East division this year and at the drubbing our boys gave the Blue Jays from across the border. But we're feeling the pain of the Tigers subsequent loss to the Minnesota Twins.

A recent triumph that continues to help ease the sting of that loss was the selection of Miss Michigan—Kaye Lani Rae Rafko—as the new Miss America. Kaye Lani Rae Rafko is a Miss America for our time. She is not only beautiful and talented. Ms. Rafko is a nurse with a special interest in working with the terminally ill. She has said that her goal is to manage a hospice for cancer sufferers.

I am proud that a young woman with that kind of dedication to easing the pain of others has been chosen as Miss America. I'm even prouder—although I'm certainly not surprised—that she comes from Michigan. Kaye Lani Rae says that as Miss America her job "is to be a role model for the young women of America." It is already clear that she will perform that job with distinction. I am happy to salute and to congratulate our own Miss America, Kaye Lani Rae Rafko.●

THE VFW HONORS DEAN PHILLIPS

● Mr. WIRTH. Mr. President, 2 years ago, a friend of mine—a highly decorated Vietnam war veteran—died. I am now proud to inform the Senate that the new Bear Valley Post No. 5061 of the Veterans of Foreign Wars in Denver, CO, has been named in memory of my friend, Capt. Dean K. Phillips.

Dean Phillips was an Army veteran who received 14 combat decorations—including two Silver Stars, two Bronze Stars, and the Purple Heart—for service in the Vietnam war.

After completing law school at the University of Denver, Dean went on to serve in the Veterans' Administration Central Office in Washington, DC. In 1979, he became the Special Assistant to VA Administrator Max Cleland and continued that role under Administrator Robert Nimmo.

Dean had a phenomenal record of achievement in securing legislation beneficial to veterans and their families. In Colorado, Dean worked to establish the Vietnam Era Veterans Tuition Waiver Act, the State Veterans Nursing Home at Florence, the Colorado Veterans Employment Rights Act, and the Paraplegic and Blind Veterans Tax Credit Act.

At the time of his death in 1985—at the age of 42—Dean was judge advocate for the Military Order of the Purple Heart.

Five days before his death, although weakened by chemotherapy and numerous operations to combat the ravages of cancer, Captain Phillips traveled to Fort Meade to turn over his command of a Special Forces Unit.

It is appropriate, Mr. President, that the courage, service, and honor exhibited by Capt. Dean K. Phillips have been forever memorialized. I am proud to have worked with Dean, and proud to rise today to recognize this fitting tribute to his memory at VFW Post No. 5061.●

RESTRICTION ON OSHA ACTIVITIES IN CALIFORNIA

● Mr. HATCH. Mr. President, late this afternoon, I received a letter from Secretary Brock concerning the Sen-

ate's decision restricting the activities of the Occupational Safety and Health Administration in California. I believe Secretary Brock has several important concerns which should be brought to the attention of our colleagues. I ask that the letter be inserted into the RECORD.

The letter follows:

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, October 14, 1987.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR ORRIN: I am deeply concerned about the impact of the rider recently adopted by the Senate for attachment to the FY 1988 appropriations bill for the Department of Labor and feel compelled to inform you of the consequences of the appropriations rider on worker protection in California and in the rest of the country.

The adopted rider prohibits the Occupational Safety and Health Administration (OSHA) from taking any action that would withdraw approval of the non-functioning California Safety and Health plan at the same time that it effectively prevents OSHA from establishing a permanent presence in California to provide Federal protection over workplace safety and health. With the decision by California not to provide protection for workers in the private sector, Californians will remain unprotected at their workplaces unless Federal OSHA steps in and enforces Federal safety and health laws. Since July 1, 1987, OSHA has provided that protection on an interim basis by temporarily shifting staff to California from other parts of the country. This has been accomplished at great cost and at the great expense of worker protection elsewhere in the nation.

The Department is committed to providing effective worker protection in California. When the California legislature failed to reinstitute that state's occupational safety and health plan, OSHA began to implement permanent plans for addressing workplace protection in California. To the extent that a sufficient permanent Federal staff is not available in California, OSHA must supplement that staff with compliance officers from other parts of the country. OSHA has already encountered a significant rate of refusal from candidates for Federal compliance officer positions due, in part, to the uncertainty of the status of the California program. The proposed rider serves to complicate this situation and to further undermine OSHA's recruiting efforts.

The continuation of temporary assignments of existing OSHA staff to California is an extremely expensive proposition in terms of the daily cost of maintaining the staff as well as the temporary leasing of space and equipment. More importantly, such assignments are accomplished at the detriment of workers in other states. The drain on personnel from the offices providing employees for assignment to California has led to a significant decline in OSHA's enforcement capabilities nationwide.

The lack of a permanent Federal staff and organization in California has equally unsettling effects in California. We have already observed confusion and uncertainty among California employers and employees as to whom they should turn to for guidance and assistance in maintaining a safe and healthy work environment. The continuance of the state plan, though it is nonoperational, has resulted in administrative confusion on such matters as differences in Federal and state standards, variances, and permits. These problems will undoubtedly continue if OSHA is unable to establish a permanent Federal presence in California.

We will continue to do the best job possible in providing effective worker protection in this country. Nevertheless, it is important that you and your colleagues realize the negative impact that this appropriations rider will have on meeting that objective.

Very truly yours,
WILLIAM E. BROCK.●

QUINCY VIETNAM VETERANS MEMORIAL

● Mr. KERRY. Mr. President, on Friday, October 16, a memorial will be dedicated to honor the men and women of Quincy, MA, who died while serving their country in the Vietnam war. This is an appropriate and fitting tribute to the Vietnam veterans of Quincy, and to all Vietnam veterans and their families.

The memorial in Quincy will be the first privately funded Vietnam memorial in the United States. The memorial was made possible by the generosity of three brothers from Quincy—Peter, William, and Thomas O'Connell, himself a Vietnam veteran—and their company, O'Connell Management Company, Inc., of North Quincy. They are to be commended for their initiative in making this memorial possible.

Forty-six men from Quincy served in Vietnam and sacrificed there. They were some of America's best and bravest fighting men, and we are proud of them. One veteran from Quincy, Charles L. Bifolchi, is still listed as missing in action. Their names will be incorporated into the design of the four-sided memorial at Marina Bay in Quincy which will honor them. The memorial will consist of an 85-foot brick and granite tower with a gold leaf cupola and a working clock. It will be located on the waterfront at Marina Bay, with a skyline backdrop. There will also be a side incorporating the history of Marina Bay, and a side which will contain an appropriate quotation reflecting the memorial's intent.

This memorial tower will reflect Quincy's pride in its past and the brave men and women of Quincy who served their country in Vietnam, as well as its hope for a future of peace. The memorial will be dedicated on Friday, October 16, 1987. Families of South Shore Vietnam veterans, various branches of the military, and local dignitaries will participate in a solemn tribute to those who lost their lives in the Vietnam war.

As a Vietnam veteran, I feel strongly that this Nation cannot and must not forget the sacrifices of all Vietnam veterans, and especially those who made the ultimate sacrifice for their country. The Vietnam Veterans Memorial in Quincy will honor their memory, and the clock tower which chimes hourly will be a living testimonial to their heroism in combat.●

MOVE FORWARD ON ANNEX V RATIFICATION

● Mr. LAUTENBERG. Mr. President, today the Foreign Relations Committee has reported out annex V for ratification by the full Senate. I applaud this action, and particularly wish to commend Senator PELL, the distinguished Chairman of the Foreign Relations Committee for his prompt action on this measure.

Earlier this year, I was joined by 10 of my colleagues from the Environment and Public Works Committee in writing to the Foreign Relations Committee, urging quick approval of the international agreement. The committee responded with a hearing in July. I testified at that hearing, stressing the need to get annex V before the Senate for ratification.

Now the Senate has the opportunity to act. I urge quick ratification of this measure, which will be an important step forward in protecting this Nation's coastal economies and communities from the ravages of pollution.

This annex to the International Convention for the Prevention of Pollution from Ships, can help respond to a significant threat to our coastal environments and economies. That threat is plastic pollution.

Annex V would prohibit dumping plastics into the oceans throughout the world. And it would regulate disposal of other forms of garbage.

It is imperative that the Senate ratify annex V. To take effect, countries comprising half of the world's gross shipping tonnage, must ratify the agreement. Currently we're at about 48 percent.

Many other countries have ratified, including England, Sweden, Italy, Japan, Egypt, West and East Germany.

Recently the Soviet Union ratified. They have about 6 percent of the world shipping tonnage. The United States has about 5 percent.

This means our ratification would put the annex over the top. This is long overdue. After all, the annex was negotiated back in 1973.

Unfortunately, this important annex was not transmitted to the Senate for ratification until this year.

The Senate should not approach the measure with the same delay as has the executive branch.

The problem of plastic pollution and garbage dumped at sea threatens our coastal environments and economies.

Mr. President, the Environment and Public Works Subcommittee on Environmental Protection has held three hearings on the plastics problem. In

July I chaired such a hearing in Asbury Park, NJ.

Our hearings provide a clear case for ratification of annex V and tough domestic legislation to back it up.

We heard from environmentalists, fishermen's representatives, local, State, and Federal officials, and representatives from New Jersey's own tourism and business community.

The very characteristic of plastics that makes them valuable, their durability, makes them a serious problem for our marine life, waterways, and coastal areas.

My State has been plastic pollution first hand. Beach closings were frequent this past summer. Miles of our coast were scarred with tampon applicators, condoms, and other floatables.

The evidence continues to grow about marine animals entangled in plastic debris and marine animals that have swallowed and choked on plastic junk.

Birds, and even the great whales have become victims of plastics carelessly discarded into the ocean.

In the Northern Pacific Ocean as many as 250,000 birds and at least 30,000 northern fur seals reportedly die each year from plastic entanglement.

My State knows what this kind of pollution means to the economy and the environment. Our tourism industry depends on clean beaches. About $7 billion a year flows into New Jersey from coastal tourism activities.

Plastic pollution is a problem for tourism. For swimmers and recreational boaters. For our fisherman. And for our marine and wildlife which choke or strangle on plastics.

We need to stop the flow of pollution from passenger and commercial ships at sea.

According to the Center for Environmental Education, the world's merchant shipping fleet junks 450,000 plastic containers every day.

Merchant ships dump into the oceans more than 12.4 billion pounds of cargo wastes annually, including plastic sheeting and strapping bands.

Recreational and sport fishing vehicles junk more than 100,000 pounds of plastic bottles, bags, and other garbage into U.S. coastal waters each year.

What laws do we have to respond? The answer is today we have none. The Refuse Act of 1899, the Clean Water Act, and the Ocean Dumping Act aren't enforced or designed to tackle the problem here at home or internationally.

What we need is annex V and strong domestic legislation to put it into effect. Annex V would help stop plastic disposal from ships. And it would regulate garbage disposal.

It provides the foundation for stopping plastic pollution in U.S. waters and international waters as well.

The annex has to be implemented in ratifying countries through domestic legislation. And appropriate domestic laws would allow enforcement even against countries that have not ratified.

I introduced legislation of this nature eariler this year. The goal is to put annex V in place, with a structure to make it work effectively.

My bill, the Plastic Pollution Control Act of 1987, would do this.

It would establish stiff criminal and civil penalties for unlawful disposal. It would allow citizens and local officials to sue to enforce the new law.

We'd also have EPA study ways to eliminate plastic pollution. Can we use alternative products? Would labeling help? How about degradable plastics?

The bill mandates a comprehensive public awareness program about plastic pollution.

And the legislation would apply not only to ships but to other sources. It would include a prohibition of plastic disposal in land areas, where such refuse could be washed or blown into the water. This responds to the fact that land sources, such as the Fresh Kills landfill in Staten Island, NY, are part of the problem too.

The Environment Committee is now considering my legislation and related measures sponsored by Senator CHAFEE.

I have also urged President Reagan to push forward in the battle against ocean pollution. I told the President of the importance of getting tough plastics and ocean pollution laws in place and strengthening the enforcement of our current pollution laws.

Mr. President, the plastics problem is a serious one. It demands a comprehensive response. Congress must act to protect our coastal environments and economies from this threat.

Ratification of annex V is a vital first step. The Senate must act quickly on this measure.●

TERRY PORTER

● Mr. SYMMS. Mr. President, when I first sought public office in 1972, our neophyte campaign team would sit around the kitchen table and brainstorm ideas about how to get our message across to the public. We sure thought we came up with some pretty good ideas. However, we were not blessed with vast media experience.

Terry Porter joined the cause. And Terry provided us with the expertise that was greatly needed for a new venture. He is a talented and creative photographer and fiercely independent businessman committed to the principles of a free market.

Terry Porter skillfully crafted our ideas and themes into attention getting commercials which are still talked about today.

It was a shock to learn of Terry's accident in 1986 and to know how severe his injuries were. Many were concerned over the negative prognosis for full recovery. But anyone who knows Terry Porter is really not surprised that his steady and strong determination has brought about a miracle recovery.

This month's Boise YMCA newsletter has a revealing article about Terry's remarkable recovery and personal courage which I want to share with my colleagues. I ask that this article appear in the RECORD.

The article follows:

NEVER GIVE UP!

Terry Porter played men's noon basketball 5 days a week at the YMCA from January 1970 to January 1986. In fact, Terry was known as 'Mr. Basketball' at the Y until January 2, 1986. While out tubing with his family, Terry's neck was broken. In a split second Terry went from athlete to quadriplegic. He lay in the snow wondering how he would care for his family.

Terry was in critical condition for days, and remained in the intensive care unit for six weeks. Every couple of hours nurses would roll Terry from his stomach to his back, then back again a few hours later. He began therapy as soon as he was able. It began with such tasks as trying to close his fingers around a spoon. He later practiced trying to maneuver the spoon to his mouth.

On his first visit home from the hospital, an embolism moved to Terry's lung. His wife performed CPR, bringing him back from a state of clinical death. This happened twice on his road to recovery.

Terry kept working on his rehabilitation. When he was first tested, he had one pound of grip strength with his right hand and six pounds with his left. Small movements required tremendous physical effort. Terry continued to work hard in therapy at the Elks Rehabilitation Hospital. After two months he was able to dial a telephone with the help of a device to push the buttons. Eventually he could kneel and hold his head up.

Less than two years later, Terry's progress has been amazing. He works out in the Nautilus Center at the Y three time a week and continues therapy with the Elks two days each week. Terry jumps rope, going as high as 89 consecutive jumps. He can do anything but run. His handgrip strength is up to 130 pounds. He has even shot baskets in the gym.

Terry has returned to his job full-time. Thanks to Larry Chase and some other friends at KIVI who helped keep his business running while Terry was in the hospital, Terry did not lose a single customer. His therapists say his is one of the most remarkable cases they have ever seen.

Terry credits his athletic background and his desire to improve as a large part of his recovery. His experience has changed his way of thinking. "There are two things which are important in any person's life: your health, and your family and friends," says Terry. "My priorities and values have changed. I don't take things for granted anymore. I count my blessings every day."

Terry advises us not to take dangerous risks. He also says to never give up!●

JOHN FAULKNER—MAINTAINING A LEGACY IN IDAHO AGRICULTURE

● Mr. SYMMS. Mr. President, the sheep industry is an integral part of Idaho's agricultural economy, and it has suffered in recent years.

But while the recession of the early eighties squeezed many in Idaho out of the industry, one of our most well-known sheep ranchers, John Faulkner, hung on.

Mr. Faulkner is part of a legacy in Idaho. His family has been raising sheep in southern Idaho for more than 40 years. John is a former president of the Idaho Wool Growers' Association and currently chairs the Public Lands Committee of the National Wool Growers Association. He knows not only the business of raising sheep, but he understands what it means to earn one's living from natural resources.

He is evidence that sheep ranching is not nearing extinction, as some have said. The industry contributes $120 million to our State's economy annually.

John was featured recently in the Idaho Statesman. The article gives an account of the people who keep the industry alive and also contains a flavor for the lifestyle.

I ask that it be inserted in the RECORD and I encourage all of my colleagues to read it.

The article follows:

AUTUMN FOLLOWS SHEEP

(By David Proctor)

SMILEY CREEK.—There are two sure signs that fall has arrived in the Stanley Basin: Leaves are turning, and John Faulkner is moving his sheep out of the mountains.

As the sun touches the top of the Sawtooths, Faulkner, members of his family, his herders and their dogs are hard at work.

The herders and dogs move the sheep from their holding pen and funnel them single file into a narrow, creaking wooden chute. The sheep baah; the herders whistle and shout and wave their arms to keep them in line.

Faulkner stands in the middle of the chute, swinging an old gate back and forth across it. The lambs are allowed to continue through the chute; the breeding ewes are screened out into a pen behind him.

A few feet down the chute, the lambs are screened again by his brother, Fred Faulkner, who operates a similar gate to pull out feeders—the lambs that need more weight.

The fat lambs—420 of them at 125 pounds each—continue down the chute and up the metal ramp into the triple-decker semi-truck that will take them to market in California.

Not every sheep is pleased with its assigned role. Workers run along the chute to untangle the confused animals and keep them headed in the right direction.

The temperature hasn't hit 40 degrees, but some of the herders and chasers are shedding layers of work clothes. Sweat stains creep down their chests and sides.

Within two hours 2,200 head of sheep are sorted, and 420 lambs are in the truck, on their daylong cross-country trip.

The sun finally hits the valley floor. It's time for breakfast.

The residents of the tiny mountain community south of Stanley have set their seasonal clocks by Faulkner for 40 years, first with his father, Ralph, 79, and now with John, 55.

Ralph's father, G.W. Faulkner, grew up on a dairy in Boise, then moved to Fairfield in 1914. When the Fairfield bank failed, Ralph moved to Hagerman and Gooding, where he began to raise sheep in the 1940s.

While Fred oversees the other Faulkner farming ventures, in the past 30 years John has become almost synonymous with sheep in Idaho. He is past president of the Idaho Wool Growers Association, currently is chairman of the National Wool Growers' Public Lands Committee and has an honorary doctorate in range management from the University of Idaho.

His sheep operation of 12,500 head remains one of the largest in the state.

Despite a deep depression that nearly sank the industry in the early 1980s, John Faulkner loves what he does. "It's a great business," he said. "Sheep grow from renewable resources: grass and mother's milk."

For this shipment, the herders brought the band from its summer mountain pastures to the Faulkner pens on Forest Service land three miles west of the Smiley Creek store on Idaho 75. They were met by the two Faulkner families and by some friends who drove up from Gooding to help.

It is the beginning and end of the sheep year. The marketable lambs have been separated from the small lambs and breeding stock. One buck now will be mixed with every 60 ewes until Oct. 15, and the reproductive cycle will begin again.

The summer marketing season accounts for about 85 percent of Faulkner's sheep income. The rest derives from the sale of wool.

In mid-October, the Smiley Creek band will be added to a band from Baker Creek and driven south on their 300 mile annual grazing circle that takes them from the mountains to Gooding and back.

They will walk through Ketchum and Hailey. Then they will head west to the Faulkner corrals in Kelly Gulch, where they will be sheared at the end of October. Others will be "sheared where we catch them," he said.

The sheep then will graze south toward Gooding. Depending on the severity of the winter, Faulkner will truck at least 4,000 head that will produce the best meat lambs to Arizona for winter pasture. An additional 5,000 will lamb in Gooding.

Depending on weather, the Idaho sheep will move to Bliss, then to Gooding in January, where they can be fed with hay.

The ewes will lamb in the spring, and the animals will head north again.

The sheep economy also works in a cycle, usually of eight to 10 years. Lately, it has been on its way up.

"Between 1981 and 1984, it crashed; it was a disaster," said Stan Boyd, executive director of the Idaho Wool Growers Association. "It got as low as 38 cents (liveweight) a pound. Families with two or three generations in the business sold out."

Les Sliman gave up in 1983. The Gooding sheepman is a member of the Southern Idaho Livestock Hall of Fame and had been in the business for 50 years. After he lost $200,000 in five years, he decided that managing a 700-head dairy-cow replacement operation was safer.

State Sen. John Peavy, D-Carey, also is a third generation sheepman. In 1983, he told *The New York Times*, "I'm afraid that sheep ranching is an industry already headed for extinction."

He sold off nearly half his 5,600 ewes, but during the past two years has built back up to 4,300.

Faulkner and Peavy survived with diversified operations. Both raise cattle, and the Faulkners also farm.

The 1980s crash was propelled by the natural supply-and-demand cycle of the market and by cheap imports from New Zealand and Australia, Boyd said.

There are no import quotas on imported lamb, though there is a bill before Congress to impose them.

The predator problem is not cyclical. Faulkner estimates he lost $40,000 worth of livestock in the past three months. In 1986, predator loss in Idaho totaled more than 23,000 head, worth $1.76 million.

Coyotes cause most of the damage, he said, followed by bears and cougars. About 30,000 coyotes are killed in Idaho a year, he said, but the problem persists.

The sheep market began to turn around in 1985, "a break-even year, with prices in the 60 cents range," Boyd said. In 1986, prices hit 70 cents a pound and this year topped out at 80 cents, but sales average about 76 cents.

The turn-around, Boyd said, has occurred because:

Lamb is a lean meat and has gained popularity with health-conscious consumers.

Use in restaurants is up 11 percent.

Wool clothing is more fashionable, and demand is up.

The depressed hay and grain markets make feed cheap.

SHEAR TRIVIA ABOUT SHEEP

The sheep industry goes a long, long way ba-a-a-a-ck:

Sheep were domesticated in western Asia about 10,000 B.C., and there is evidence of domesticated sheep in prehistoric Europe.

During the Middle Ages, England and Spain were at the head of the flock. Sheep came to the New World via South America in the 16th and 17th century.

They came to western Idaho from California via Oregon and to eastern Idaho from Colorado and Wyoming about the time of the Civil War. By 1867, the breeding sheep population in Idaho hit 14,000; by 1890, it jumped to 614,000. Sheep numbers peaked in 1918 at 2.65 million, nearly six times the human population.

Nationally, the sheep population peaked at 56.7 million head in 1942. In 1985 it hit 9.9 million.

Four breeds were developed in Idaho. The U.S. Sheep Experimental Station at Dubois created the Columbia in 1917, the Targhee in the 1930s and the Polypay in 1969. The Laidlaw family developed the Panama breed in the 1950s at their ranch in Muldoon Canyon near Carey.

The Taylor Grazing Act, passed by Congress in 1934, divided the federal range among the segments of the livestock industry to correct over-grazing problems. Sheep numbers began to drop.

After World War II, the use of synthetics and a shortage of sheepherders also contributed to declining numbers. The numbers of Basque sheepherders were reduced by better economic conditions in Spain and tighter U.S. immigration laws.

Lamb consumption also dropped from 5 pounds per person in 1963 to less than 2 pounds in 1983, though it has increased slightly since then. In comparison, Ameri-

cans each eat an average of 63 pounds of beef annually.

In 1961, there were 1 million head of breeding stock in Idaho and 670,000 people. Human numbers finally exceeded sheep numbers in the 1970 census with 687,000 sheep and 700,000 people.

In 1980, there were 456,000 sheep and 713,000 people. In 1987, there are 299,000 head of breeding stock and about 1 million people.

In 1931, it was estimated the sheep industry produced an annual wool and lamb income of $30 million—enough money to spread a double line of dollar bills across the widest part of the state and still have some left over. It was the third largest industry in the state.

In 1987, the income estimate is again $30 million, though the modern dollars will not stretch as far. The industry's total impact on the state—for trucking, feed, wages and so on—is $120 million.

CENTRAL AMERICAN POLL

● Mr. BOSCHWITZ. Mr. President, earlier this year, USIA contracted with the Gallup polling organization's affiliate in Costa Rica to conduct a public opinion survey in Costa Rica, Honduras, El Salvador, and Guatemala. The results of the poll indicate how the Central American people themselves feel about the Contras, the Sandinistas, and about U.S. policy in the region.

The results were, I believe, surprising to some. Strong majorities of those polled in each of the countries held intensely negative sentiments toward the Sandinistas and positive attitudes toward the Contras. Following the poll, I wrote an article on its results, which I will ask be put into the RECORD. I was asked about the poll's methodology, so I have obtained a copy of its procedures, as well as complete breakdown of the entire poll, which I shall also submit for the RECORD.

Mr. President, because Central Americans are now engaged in a regional peace process, I believe this poll is as timely now as it was when it was first released. I commend it to my colleagues' attention.

I ask that these materials be printed in the RECORD.

The materials follow:

POLL SHOWS WHAT NICARAGUA'S NEIGHBORS THINK

(By Senator Rudy Boschwitz)

Normally it's your neighbors who know you best.

So I was particularly interested in a poll taken by the Gallup Organization's international group of Nicaragua's neighbors—Costa Rica, Honduras, El Salvador and Guatemala. It was recently entered into the Congressional Record by Sen. Bob Dole and is enormously revealing.

The first question was: "How justly does the Government of Nicaragua treat the people—very justly, somewhat justly, with little justice or not justly at all." This is how people living in neighboring countries answered:

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very justly	3	6	4	5
Somewhat justly	5	13	15	19
Justly	8	19	19	24
With little justice	29	31	39	40
No justice at all	56	40	23	27
Total, unjustly	85	71	62	67
No opinion, no answer	7	10	19	9

Now that's a somewhat different result than many would have expected from listening and reading the news. Consider question number 2: "Would you say the (Sandinista) Government of Nicaragua represents the majority of the people or that it represents a minority." The answer will blow your socks off.

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Represents majority	11	14	18	27
Represents minority	79	75	64	64
No opinion, don't know	10	11	18	9

It's interesting to note that Costa Rica and Honduras border Nicaragua. El Salvador doesn't, nor does Guatemala, which is the farthest away from Nicaragua of the four.

The pattern is clear throughout the poll: The closest neighbors of Nicaragua like it the least!

Here's the third question: "Which side of the conflict do you think the majority of the people of Nicaragua support— . . . the Sandinistas . . . or the Contras . . ."

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Majority supports:				
Sandinistas	12	14	20	23
Contras	72	75	46	60
No opinion	16	11	43	17

When asked if a country were to attack their countries which one would it be, the vast majority of those answering say Nicaragua, with Cuba in second place and the Soviet Union in third. The United States was not shown as even being mentioned!

Except when people were asked: "Which country, if any, would come to our aid immediately if we were attacked?" Over 80 percent answered: the U.S.

Then the question was asked: "In your opinion can the U.S. be relied upon to help us defend our country in case of future military attack." Note the answer.

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Yes	91	88	84	88
No	4	5	7	8
Don't know	5	7	9	4

These people have more confidence in us than we do in ourselves!

Who treats civilians better in the war zones? The Contras or the Sandinistas?

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Sandinistas	6	6	10	18
Contras	72	74	45	60
Don't know	22	20	44	22

Do you approve or disapprove of American military aid to the Contras?

	Costa Rica	Honduras	El Salvador	Guatemala
Approve	70	81	69	68
Disapprove	21	9	23	28
Don't know	9	10	8	4

After stating that it was their opinion that Cuba, the Soviet Union and Libya gave military aid to the Sandinistas, the people of the region were asked if they approved of such aid to the Sandinistas.

	Costa Rica	Honduras	El Salvador	Guatemala
Approve	9	12	10	14
Disapprove	68	65	77	63
Don't know	23	23	13	23

In short in Central America the overwhelming majority of people approve of us, do not feel threatened by the United States, approve of our aid to the Contras, and fear the Sandinistas and oppose aid from the outside to them.

In the last five years all the countries of South America, except Chile and Paraguay, have remained or become democracies. During the same period in Central America all but Nicaragua and Panama have turned to democracy, where only Costa Rica had democratic institutions before.

Among the countries that have adopted democracy during the last five years are Brazil, Argentina, Peru, Uruguay, Bolivia, Ecuador (actually in 1979), Honduras, Guatemala, El Salvador and Belize. Many never had democratic institutions before. This is both remarkable and unprecedented. Yet, amazingly, critics maintain our policy has failed or there is no policy at all.

Think of the further progress the region could make if we belived in ourselves as much as they believe in us.

METHODOLOGY FOR 1987 SURVEY ON CENTRAL AMERICA

CONTRACTOR

USIA contracted with Consultoria Interdisciplinaria en Desarrollo S.A. (CID—the Gallup affiliate in Costa Rica) to conduct the survey in January 1987.

SAMPLE SIZE

Personal interviews were conducted with persons 18 years of age and over with samples of the following size:

Costa Rica	1,212
Honduras	1,291
El Salvador	1,303
Guatemala	1,277

Interviewers in all cases were nationals of the country in which they worked.

Margin of error on samples of the size is approximately +/− 3 percent, i.e., in 19 cases out of 20 the results of similar surveys will differ by no more than three percentage points in either direction from results of the survey reported herein.

SAMPLING PROCEDURES

In each country at least 120 sampling points (locales at which interviewing would be conducted) were chosen by random area sampling procedures, generally using maps of the populated areas. Where maps were not available, a system was used to divide the area into quadrants, measuring the dimensions of the quadrants, and drawing sampling locales within these using random procedures.

Quotas were set to define the total sample, controlling for age and sex of respondent. At each sampling locale the contractor selected homes systematically from a random starting point. Selection of first persons to be interviewed was based upon random selection within households (person with next birthday) but as interviewing progressed at a given sampling point respondents were chosen to complete the predesignated quota.

No more than one person was interviewed in any single household.

In Guatemala, the departments of Peten, Alto Verapaz and Bajo Verapaz were excluded from sampling because of remoteness, problems with guerrillas and low population density. In the highlands, where persons who spoke only an Indian dialect could not be interviewed, substitution was permitted. In El Salvador, interviewing was conducted throughout the country.

Comparisons of demographic characteristics of the samples with those of the populations at large reveal acceptable correspondence in terms of age, sex, and educational levels. (Census data for Guatemala in particular were out-dated and difficult to estimate.) Because of the large proportions of the populations of countries other than Costa Rica who live in rural areas, the contractor oversampled urban areas somewhat in order to provide a more adequate base for comparative analysis. Consistently, more of the population in rural areas replied "don't know" than in the cities, but the direction of the findings are similar. Calculating the results giving appropriate (less) weight to urban respondents and more weight to rural respondents does not change significantly the national results reported by the contractor.

SUPERVISION AND VALIDATION

Teams traveling in rural areas were accompanied by supervisors who oversaw the work on the spot by checking with a selection of respondents to make sure interviewing had been conducted correctly. Independent validation was conducted in urban areas by re-interviews within 48 hours, using a brief form of the questionnaire with subsequent comparisons of responses on the second round with answers given the first round.

CENTRAL AMERICANS CONDEMN SANDINISTAS, WELCOME U.S. SUPPORT

INTRODUCTION

These are results of a USIA-sponsored survey conducted in January 1987 in Costa Rica, Honduras, El Salvador and Guatemala. Personal interviews were conducted in each country with national samples of approximately 1200 adults by Consultoria Interdisciplinaria en Desarrollo, S.A., the Costa Rican affiliate of Gallup International.

This report describes the concerns of the people in Central America about the challenges they face, describes their intensely negative perceptions of Nicaragua and Cuba, reveals their relatively favorable view of the opposition forces in Nicaragua (the Contras), and indicates the depth of their reliance for protection upon the U.S. Public opinion polls reveal that the viewpoints of people in the region peripheral to Nicaragua are much more supportive of U.S. policy toward Central America than is true in other areas of the world.[1]

I. The International Setting: Regional Concern Focuses On Nicaragua

A major finding of the current research is the consistently critical tone of public opinion in regard to Nicaragua:

THE SANDINISTA GOVERNMENT IS VIEWED NEGATIVELY

Strong majorities say the Sandinista government treats the Nicaraguan people unjustly, and represents only a minority of the population. In fact, most think a majority of Nicaraguans favor the Contras in the current internal conflict (Tables 1, 2, 3).

A third think the Sandinistas have become less democratic in the last year, and just a handful say more democratic. In the same view, well under a third say the Sandinista government is responsive to the majority of the Nicaraguan people (Tables 4, 5). Seven in ten detect little or no freedom of speech in Nicaragua. As for Sandinista efforts to protect human rights, some six in ten (eight in ten in Costa Rica) see little or no effort by the Sandinista government along these lines (Tables 6, 7).

Asked directly, at least three-quarters in all four countries express an unfavorable opinion of the Sandinista government, a particularly intense feeling in Costa Rica (Table 8).

The Nicaraguan government is perceived to be lined closely to the Soviet bloc. Large majorities (in Guatemala about half) name Cuba and the Soviet Union as principal suppliers of weapons to the Sandinistas. Some two-thirds disapprove and less than 15 percent approve of such aid (Tables 9, 10). At least seven persons in every ten describe Nicaragua as an instrument of Cuba and the Soviet Union, and few see it as independent. In turn, over seven in ten view Cuba as an instrument of the USSR, and eight in ten as a threat to the region (Tables 11, 12, 13).

Fear is a factor in the negative perceptions of Nicaragua: half in Honduras see a Nicaraguan attack as likely in the next few years, and in Costa Rica this view is held by about four in ten (Tables 14, 15). But in all four countries over seven in ten expect the U.S. to defend their countries should there ever be an attack (Tables 16, 17).

SUBVERSION: THE SILENT INVASION

Seven in ten Costa Ricans and Hondurans believe Nicaragua is trying to weaken the government of their country. In El Salvador as well, almost two-thirds name Nicaragua, and close to half (45%) cite Cuba. Guatemalans are less concerned about Nicaraguan subversion, although four in ten think that country is trying to weaken their government; a quarter mention Cuba and one in seven the Soviet Union (Table 18). In all four countries three-fourths say the Soviet Union actively foments armed conflicts in Central America (Table 19). By contrast, the United States is recognized by large majorities in all four countries as trying to help stabilize their governments (Table 20).

Support for guerrilla forces in El Salvador is attributed by eight in ten Salvadorans to Nicaragua and by six in ten to Cuba. Guatemalans name the same two countries as sources of support for insurgent forces in Guatemala, although frequency of mention of any external support is less. The lack of guerrilla activity in Costa Rica and Honduras is reflected in the large proportion which did not answer the question (Table 21).

MOST CENTRAL AMERICANS SUPPORT AID TO CONTRAS

Large majorities assert it will be better for Nicaragua if the Contra forces win their conflict with the Sandinistas, and better for their own countries as well (Tables 22, 23). And over two-thirds in all four countries not only know of it but approve U.S. aid to the Contras, both military and non-military (Tables 24, 25, 26).

Over 60 percent in Honduras, Costa Rica and El Salvador favor aid to the Contras by other Central American countries. In Guatemala half say yes, a third no (Table 27).

Two reasons chosen with relatively high frequency in all countries to explain U.S. support for the Contras are U.S. desire to avoid establishment of a communist government in Central America, and to stop the Soviet Union and Cuba from expanding their influence. In Costa Rica the third motivation most often attributed to the U.S. for aiding the Contras was to establish a democratic government in Nicaragua. This reason also ranks third in Honduras, tied with the opinion that the U.S. is protecting its commercial interests. Protection of U.S. commercial interests was also widely mentioned in El Salvador and Guatemala, on a par with impeding the growth of Soviet/Cuban influence. It is noteworthy that the two motivations least often attributed to the U.S. were establishing U.S. military bases in the region, and a desire to put friends of the U.S. in power (Table 28).

Contra forces have a largely positive image in the region. Preponderant opinion is that the Contras treat war zone populations better than the Sandinistas (Table 29). If the Contra forces win the war, most publics believe the Contra leadership will hold free elections and establish a democracy. This view is expressed by majorities ranging from half (54%) in El Salvador to seven in ten (69%) in Honduras (Table 30).

Although pluralities in three countries think that the Sandinista forces are winning the war (in Honduras a plurality says the Contras are winning), nevertheless about half in Costa Rica, Honduras and Guatemala think the Contra forces will win in the long run. In El Salvador a quarter of the population agrees, a fifth thinks the Sandinistas will prevail, but half express no opinion (Tables 31, 32).

MOST CENTRAL AMERICANS OPPOSE THE GUERRILLA INSURGENCY IN EL SALVADOR

From six to eight in every ten think it will be better for El Salvador if the government forces win over the leftist revolutionary forces (Table 33).

Cuba and Nicaragua are most often named as suppliers of military aid to the

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[1] A number of these findings were initially reported in USIA Research Memorandum M-3/5/87, "Central Americans Fear Sandinistas as Soviet/Cuban Instrument, Support U.S. Military Aid to Contras." The 1987 results are generally in line with findings revealed in 1986, 1985, and 1983, the year the first of this series of surveys in Central America was conducted.

leftist revolutionary forces in El Salvador, with the U.S.S.R. in third place. When asked what they think about Cuban military aid to the insurgents, the publics in all four countries disapprove overwhelmingly (Tables 34, 35). On the other hand, U.S. military aid to the government forces in El Salvador meets with approval by majorities in every country, ranging from 56 percent in Costa Rica to 81 percent in Honduras. In El Salvador itself, three-quarters approve, 22 percent do not (Table 36).

In countries other than El Salvador, pluralities feel that there would be no fighting there were it not for support of the insurgents by Cuba and Nicaragua. In El Salvador itself there is a different opinion. Although a third say the conflict would stop without that external support, more (45%) believe it would continue (Table 37).

ON BALANCE, THE CONTADORA PROCESS IS VIEWED FAVORABLY

There is guarded optimism that the Contadora process will succeed in bringing peace within the next two years. The proportion holding this view ranges from half the public in Costa Rica to three-fourths in Honduras (Table 38).

OPINION OF THE U.S. IS VERY HIGHLY FAVORABLE

The publics in these four countries almost unanimously hold favorable opinions of the United States, and about half are very favorable, placing the U.S. ahead of any other country asked about. Not surprisingly, in light of the other findings in this survey, the opinions that Central Americans express of the USSR, Cuba and Nicaragua are almost diametrically opposite (Tables 39, 40).

The U.S. is also widely considered by Central American publics to treat their countries fairly and with respect—more so in Costa Rica, but by at least seven in ten persons in the other three countries as well (Tables 41, 42).

As to benefits from the bilateral relationship with the U.S., at least six persons in ten in Costa Rica, Honduras and El Salvador think their country benefits from the relationship at least as much as the United States. In Guatemala, just under half think so (Table 43).

In Honduras, 85 percent of the public approve the presence of U.S. troops there for maneuvers. Eight in ten believe that the maneuvers help to deter a Nicaraguan invasion of Honduras, although six in ten also say they could lead to conflict with Nicaragua. They are widely seen as good training for Honduran forces, and as symbolizing a U.S. commitment to Honduran national security, but also as linking Honduras too closely with the U.S. (Tables 44, 45).

II. The Local Setting: Perceptions Of The Economic Situation Vary From Mixed To Disastrous

Except in Costa Rica, at least eight in ten say things in general are going badly in their respective countries, and that their economic situation in particular is in bad shape (Tables 46, 47).

The economic future looks particularly bleak to Salvadorans, a majority of whom think things are going to get worse. Only ten percent are somewhat optimistic. Guatemalans tend to be more pessimistic (41%) then optimistic (27%). In Honduras and Costa Rica, opinion is more evenly divided (Table 48).

Unemployment is the problem cited most often in Honduras (65%) and Guatemala (51%). In El Salvador, unemployment (53%) is mentioned about as often as inflation (57%). Hondurans are also concerned about a possible Nicaraguan invasion, ranking this problem second. Costa Rican concerns differ—illicit narcotics traffic is the one problem selected most often as important (36%), followed by mention of housing shortages, unemployment, and inflation. Each is cited by about a quarter of the population. Corruption is also of concern to one person in four (Table 49).

COMMITMENT TO DEMOCRACY VARIES

The publics overwhelmingly support democracy as the most beneficial system of government for Central Americans, but there are noteworthy differences in degree of commitment. In Costa Rica, 83 percent express strong agreement that democracy is the most beneficial form of government, and in Honduras two-thirds agree strongly. But in El Salvador only about half feel that strongly about democracy, and in Guatemala only about a quarter (Table 50). Only in Costa Rica do political figures have a net positive prestige score (Table 51).

The role of the U.S. in helping to strengthen democratic government in each country is recognized in quite different degrees. The U.S. is named (unaided) as helping to make their country a democracy by six in ten Hondurans, five in ten Salvadorans, four in ten Guatemalans, and three in ten Costa Ricans. In Costa Rica, democracy was described spontaneously by about one in ten as "a national tradition," and half named no country as having helped in its establishment (Table 52).

APPENDIX

CONTENTS: TABLES REFERRED TO IN TEXT; QUESTIONNAIRE; METHODOLOGICAL NOTE

FIGURES FOR JANUARY 1987 SURVEY OF PUBLIC OPINION IN CENTRAL AMERICA

	Costa Rica	Honduras	El Salvador	Guatemala
Sample sizes	11,212	1,291	1,303	.....

Table 1—"Would you say the government of Nicaragua represents the majority of the people, or that it represents a minority?

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Represents majority	11	14	18	27
Represents minority	79	75	64	64
No opinion, don't know	10	11	18	9
Total (Question 18)	100	100	100	100

Table 2—"How does the government of Nicaragua treat the people—very justly, somewhat justly, with little justice, or not justly at all?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very justly	3	6	4	5
Somewhat justly	5	13	15	19
Subtotal, justly	6	19	19	24
With little justice	29	31	39	40
No justice at all	56	40	23	27
Subtotal, unjustly	85	71	62	67
No opinion, no answer	7	10	19	9
Total (Question 23)	100	100	100	100

Table 3—"Which side in the conflict do you think the majority of the people of Nicaragua support—does the majority favor the Sandinista government forces, or favor the Contra opposition forces?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Majority supports:				
Sandinista forces	12	14	20	23
Contra forces	72	75	46	60
No opinion	16	11	34	17
Total (Question 30)	100	100	100	100

Table 4—"In the last year, do you think the government of Nicaragua has become more democratic, less democratic, or has not changed very much, or haven't you heard enough to say?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
More democratic	4	6	6	6
About the same	48	40	44	48
Less democratic	41	42	33	33
Has not heard/no opinion	7	12	17	13
Total (Question 19)	100	100	100	100

Table 5—"How responsive to the majority of the Nicaraguan people is the present Sandinista government—very responsive, somewhat responsive, not very responsive, not responsive at all, or haven't you heard enough to say?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very responsive	2	2	3	4
Somewhat responsive	10	17	19	25
Subtotal, responsive	12	19	22	29
Little responsive	30	33	40	41
Not responsive at all	49	36	22	24
Subtotal, not responsive	79	69	62	65
No opinion	9	12	16	6
Total (Question 20)	100	100	100	100

Table 6—"How free do you think the people in Nicaragua are to say openly what they think about their government and its policies—would you say they can speak very freely, somewhat freely, not very freely, or

cannot speak freely at all, or haven't you heard enough to say?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very freely	1	2	2	3
Somewhat freely	4	7	14	17
Subtotal, freely	5	9	16	20
Little freedom	19	21	36	34
Can not speak freely	71	60	37	40
Subtotal, not freely	90	81	73	74
No opinion	5	10	11	6
Total (Question 21)	100	100	100	100

Table 7—"How much effort is the government of Nicaragua making to protect the human rights of the people—a great deal of effort to protect human rights, some effort, not very much effort, or no effort at all, or haven't you heard enough to say?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Great effort for human rights	3	6	4	7
Some effort	6	21	21	28
Subtotal, effort	9	27	25	35
Little effort	28	25	34	36
No effort to protect human rights	55	37	22	21
Subtotal, lack of effort	83	62	56	57
No opinion	8	11	10	8
Total (Question 22)	100	100	100	100

Table 8—"Now some questions about Nicaragua. What is your opinion of the Sandinista government in Nicaragua—very favorable, somewhat favorable, somewhat unfavorable, or very unfavorable, or haven't you heard enough about the government in Nicaragua to have an opinion?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very favorable	2	1	1	1
Somewhat favorable	2	7	7	7
Subtotal, favorable	4	8	8	8
Somewhat unfavorable	21	46	47	50
Very unfavorable	69	36	27	28
Subtotal, unfavorable	90	82	74	7
No opinion	6	10	8	4
Total (Question 16)	100	100	100	100

Table 9—"Which foreign countries, if any, provide military aid to the Sandinista government forces in Nicaragua? Any other? Accept up to three."

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Cuba	66	75	87	56
U.S.S.R.	66	64	78	49
Libya	4	6	12	2
Others	12	12	26	21
Don't know	23	19	8	21
(Question 37)				

Note.—Figures will add to more than 100% due to multiple answers.

Table 10—"What is your opinion about provision of military aid by [None of country] to the Sandinista government in Nicaragua—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Approve strongly	6	8	4	5
Approve somewhat	3	4	6	9
Subtotal, approval	9	12	10	14
Disapprove somewhat	9	13	23	26
Disapprove strongly	59	52	54	37
Subtotal, disapprove	68	65	77	63
No opinion	23	23	13	23
Total (Question 38)	100	100	100	100

Table 11—"Some people say that Nicaragua acts as an instrument of Cuba and of the Soviet Union in Central America and the Caribbean. Others say Nicaraguan policies and actions are independent of Cuba and the Soviet Union. Which view is closer to your own?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Nicaragua is an instrument	83	88	76	78
Nicaragua is independent	8	5	10	16
Don't Know/No answer	9	7	14	6
Total (Question 39)	100	100	100	100

Table 12—"And now, about Cuba. Do you think Cuba represents a positive influence or a threat, in Central America?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Influence for good	3	2	3	6
A threat	88	91	82	87
No opinion	9	7	15	7
Total (Question 46)	100	100	100	100

Table 13—"Some people say that Cuba is acting as a tool for the Soviet Union in Central America and the Caribbean. Others say Cuban policies and actions are independent of the Soviet Union. Which view is closer to your own?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Cuba is a tool	77	83	73	73
Cuba is independent	18	7	10	18
No opinion	10	10	17	9
Total (Question 47)	100	100	100	100

Table 14—"Now a question about the future. Some people say that our country will probably be attacked militarily by another country in the next two or three years. Other people say that while this is possible, it is not likely [probable]. What do you think—would you say that an attack on our country in the next two or three years is very likely, fairly likely, not very likely, or not at all likely?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very likely	9	19	6	3
Fairly likely	29	33	15	17
Subtotal, likely	38	52	21	20
Not very (little) likely	31	30	43	32
Not at all likely	30	16	33	42
Subtotal, unlikely	61	46	76	74
No opinion, don't know	1	2	3	6
Total (Question 6)	100	100	100	100

Table 15—If answered very or fairly likely in preceding question, ask: "Which country is the one that would attack?" "Any other?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Nicaragua	38	50	17	12
Cuba	3	3	9	5
Soviet Union	1	1	1	4
All others	2	7	2	5
No opinion	3	2	2	
Not asked (Question 7)	62	48	79	80

Note.—Totals exceed 100% due to multiple answers.

Table 16—"[Ask all] Which country, if any, would come to our aid immediately, if we were attacked?" "Any other?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
United States	86	88	80	70
Panama	22	(1)	2	1
Venezuela	15	(1)	5	(1)
Others (including other Central America countries)	9	10	35	39
No answer, don't know (Question 8)	8	9	12	8

[1] Signifies less than 0.5%.

Note.—Figures may add to more than 100% due to multiple responses.

Table 17—"[Ask all] In your opinion, can the U.S. be relied upon to help us defend our country in case of future military attack?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Yes	91	88	83	88
No	4	5	7	8
No opinion	5	7	10	4
Total (Question 55)	100	100	100	100

Table 18—"Which country, if any, is trying to weaken our government?" "Any other?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Nicaragua	73	72	64	39
Cuba	8	10	45	23
U.S.S.R	6	3	11	14
United States	2	1	1	3
El Salvador		4		3
Others	3	2	3	7
No other country	3	1	1	2
No opinion, don't know (Question 9)	19	22	23	29

Note.—Answers will add to more than 100% due to multiple responses.

Table 19—"Some people say that the Soviet Union has little to do with the armed conflicts in Central America. Others say that the Soviet Union actively foments armed conflicts in Central America. What do you think: U.S.S.R. definitely foments conflict, probably foments conflict, probably does not foment conflict or definitely does not foment conflict?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Definitely foments conflicts	54	61	47	44
Probably foments	25	17	26	31
Subtotal, foments conflict	79	78	73	75
Probably does not	4	5	8	10
Definitely does not	6	5	2	3
Subtotal, does not foment	10	10	10	13
Don't know	11	12	17	12
Total (Question 49)	100	100	100	100

Table 20—"Which country, if any, is trying to keep our government stable?" "Any other?"

[In percent]

	Costa Rica,	Honduras	El Salvador	Guatemala
U.S.	74	78	86	64
Venezuela	4	1	9	2
Panama	4	1	1	1
Mexico		1	3	4
Other Central America countries	1	7	5	10
Democratic countries	2	(1)	(1)	3
European countries		1	7	11
Others	4	1	4	8
No country	4	2	1	1
No opinion, don't know (Question 10)	19	15	10	14

[1] Signifies less than 0.51.

Table 21—"Which country, if any, provides support for guerrilla or insurgent forces here in our country?" "Any other?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Nicaragua	16	37	80	39
Cuba	11	20	62	36
U.S.S.R.	6	6	12	13
Libya	(1)	(1)	1	(1)
Other communist countries	(1)	(1)	(1)	1
Others	16	7	1	6
No country	6	2	(1)	1
No opinion, don't know (Question 11)	57	46	8	30

[1] Signifies less than 0.5%.

Note.—Figures will add to more than 100% due to multiple mentions.

Table 22—"Will it be better for Nicaragua if the Sandinista government forces win the war, or if the Contra opposition forces win?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Better for Nicaragua:				
If Sandinistas win	6	6	15	17
If Contras win	76	79	62	70
No opinion	18	15	23	13
Total (Question 28)	100	100	100	100

Table 23—"Will it be better for our own country if the Sandinista government forces win, or if the Contra opposition forces win?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Better for own country:				
If Sandinistas win	5	5	10	14
If Contras win	76	77	70	70
No opinion	19	18	20	16
Total (Question 29)	100	100	100	100

Table 24—"Which country or countries can you name that have sent arms or money to the Contra opposition forces?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
United States	72	80	86	71
Honduras	3	2	5	5
Panama	3	1	1	1
Venezuela	2	1	1	1
Israel	4	2	6	6
Costa Rica	—	2	3	2
Others	7	9	8	19
Don't know (Question 27)	26	17	11	16

[1] Signified less than 0.5%.

Note.—Figures will add to more than 100% due to multiple mentions.

Table 25—"As you may know, the U.S. is giving military aid to the opposition forces known as Contras. What is your opinion about this?

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Approve Strongly	40	37	35	24
Approve somewhat	30	44	34	44
Subtotal, approval	70	81	69	68
Disapprove somewhat	10	5	11	18
Disapprove strongly	11	4	12	10
Subtotal, disapprove	21	9	23	28
No opinion	9	10	8	4
Total (Question 33)	100	100	100	100

Table 26—"The U.S. is also giving nonmilitary aid to the Contra opposition forces. What is your opinion about this—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Approve strongly	51	40	39	32
Approve somewhat	26	42	37	42
Subtotal, approval	77	82	76	74
Disapprove somewhat	7	6	9	14
Disapprove strongly	7	3	8	7
Subtotal, disapprove	14	9	17	21
No opinion	9	9	7	5
Total (Question 34)	100	100	100	100

Table 27—"Do you agree or disagree that other governments in Central America should give aid to the Contra forces?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Agree	61	74	63	54
Disagree	29	17	27	38
No opinion	10	9	10	8
Total (Question 35)	100	100	100	100

Table 28—"Here is a list of reasons some people give to explain why the U.S. is giving aid to the Contra opposition forces in Nicaragua. Please tell me which one of these reasons best explains why you think the U.S. is giving aid to the Contra opposition forces." "And which other reason?"

[In percent]

	Cost Rica	Honduras	El Salvador	Guatemala
To protect the commercial interests of the U.S.	19	29	35	35
To prevent establishment of a communist govt in Central America	54	54	52	47
To put friends of the U.S. in power	5	11	10	14
To help the economic development of the country	20	21	15	25
To establish a democratic govt. for the sake of the people	39	29	25	24
To establish U.S. military bases in the region	8	7	13	18

[In percent]

	Cost Rica	Hon-duras	El Salva-dor	Guate-mala
To stop the Soviet Union and Cuba from expanding their influence	41	34	36	34
No opinion, don't know	5	8	6	1
(Question 36)				

Note.—Figures will add to more than 100% due to multiple response.

Table 29—"There are people living in the areas of Nicaragua where there is armed conflict between the Sandinista government forces and the Contra opposition forces. Which of these two forces generally treats the people with more consideration?"

[In percent]

	Costa Rica	Hon-duras	El Salva-dor	Guate-mala
Sandinista govt. forces	6	6	10	18
Contra forces	72	74	46	60
No opinion	22	20	44	22
Total	100	100	100	100
(Question 31)				

Table 30—"Some people say that if the Contra opposition forces win the conflict in Nicaragua, their leaders will have free elections and restore democracy. Other people say that the leaders of the Contras will seize power for themselves, and not establish democracy. Which of these views is closer to your own, or haven't you heard enough to say?"

[In percent]

	Costa Rica	Hon-duras	El Salva-dor	Guate-mala
Contras will restore democracy	64	69	54	59
Contras will not	15	6	16	23
Have not heard/no opinion	21	25	30	18
Total	100	100	100	100
(Question 21)				

Table 31—"Who do you think is winning the war in Nicaragua—the Sandinista government forces or the Contra opposition forces?"

[In percent]

	Costa Rica	Hon-duras	El Salva-dor	Guate-mala
Sandinistas	37	28	33	40
The contras	27	35	18	31
No opinion	36	37	59	29
Total	100	100	100	100
(Question 25)				

Table 32—"Who do you think will eventually win the war in Nicaragua—the Sandinista government forces or the Contra opposition forces?"

[In percent]

	Costa Rica	Hon-duras	El Salva-dor	Guate-mala
Sandinistas	20	15	22	21
The contras	48	51	26	54
No opinion	32	34	52	25
Total	100	100	100	100
(Question 26)				

Table 33—"Will it be better for El Salvador if the government forces win the war, or if the leftist revolutionary forces win?"

[In percent]

	Costa Rica	Hon-duras	El Salva-dor	Guate-mala
Better for El Salvador:				
If government forces win	62	79	71	76
If revolutionary forces win	6	4	4	10
No opinion	32	17	25	14
Total	100	100	100	100
(Question 41)				

Table 34—"As best you know, which foreign countries are giving military aid to the leftist revolutionary forces in El Salvador, or haven't you heard enough to say?"

[In percent]

	Costa Rica	Hon-duras	El Salva-dor	Guate-mala
Cuba	38	48	80	45
Nicaragua	15	40	85	41
U.S.S.R.	22	24	41	24
Libya	1	2	1	1
Other Communist countries	1	1	2	2
Other	3	2	4	6
Don't know	58	37	6	30
Total	138	154	219	149
(Question 42)				

Note.—Totals exceed 100 percent due to multiple answers.

Table 35—"As you may know, Cuba provides military aid to the leftist revolutionary forces in El Salvador. What is your opinion about the shipment of arms from Cuba to the leftist revolutionary forces—do you approve strongly, approved somewhat, disapprove somewhat, or disapprove strongly?"

[In percent]

	Costa Rica	Hon-duras	El Salva-dor	Guate-mala
Approve strongly	3	5	3	5
Approve somewhat	2	6	5	10
Subtotal, approve	5	11	8	15
Disapprove somewhat	12	18	19	35
Disapprove strongly	64	58	67	44
Subtotal, disapprove	76	76	86	79
No opinion	19	13	6	6
Total	100	100	100	100
(Question 43)				

Table 36—"As you may know, the U.S. is giving military aid to the government forces in El Salvador. What is your opinion about United States military aid to the government forces in El Salvador—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?"

[In percent]

	Costa Rica	Hon-duras	El Salva-dor	Guate-mala
Strongly approve	34	37	45	26
Somewhat approve	22	44	30	44
Subtotal, approve	56	81	75	70
Somewaht disapprove	10	5	13	17
Strongly disapprove	15	4	9	8
Subtotal, disapprove	25	9	22	25
No opinion	19	10	3	5
Totals	100	100	100	100
(Question 45)				

Table 37—"Some people say there would be no war in El Salvador if Cuba and Nicaragua were not supporting the leftist revolutionary forces. Others say there would be a war even if Cuba and Nicaragua were not involved. Which of these views is closer to your own?"

[In percent]

	Costa Rica	Hon-duras	El Salva-dor	Guate-mala
No war with Cuba and Nicaragua	42	50	32	54
There would be a war even if Cuba and Nicaragua not involved	36	23	45	32
No opinion	22	27	23	14
Total	100	100	100	100
(Question 48)				

Table 38.—"As you may know, the countries in the Contadora group—Mexico, Venezuela, Colombia and Panama—are trying through negotiations to bring peace to Central America. From what you have heard, how likely is it that they will succeed in bringing peace within the next two years—is it very likely, fairly likely, not very likely, or not at all likely?"

[In percent]

	Costa Rica	Hon-duras	El Salva-dor	Guate-mala
Very likely	9	19	12	13
Somewhat likely	42	57	42	47
Subtotal, likely	51	76	54	60
Little likely	28	9	25	23
Not at all likely	15	4	11	11
Subtotal, unfair	43	13	36	34
No opinion	6	11	10	6
Total	100	100	100	100
(Question 56)				

Tables 39/40—"All countries have their good aspects and possibly others which are not so good. Taking into consideration all aspects, what general opinion do you have of (name of country)—very favorable, somewhat favorable, somewhat unfavorable, or very unfavorable?" (Qs. 14/15)

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Opinion of Spain:				
Very favorable	22	17	17	15
Somewhat favorable	65	58	64	63
Subtotal, favorable	87	75	81	78
Somewhat unfavorable	3	10	5	8
Very unfavorable	1	2	(1)	2
Subtotal, unfavorable	4	12	5	10
No opinion	9	13	14	12
Total	100	100	100	100
Opinion of United States:				
Very favorable	52	57	45	57
Somewhat favorable	43	36	41	34
Subtotal, favorable	95	93	89	91
Somewhat unfavorable	2	2	7	5
Very unfavorable	(1)	(1)	1	2
Subtotal, unfavorable	2	2	8	7
No opinion	3	5	3	2
Total	100	100	100	100
Opinion of Japan:				
Very favorable	31	22	25	26
Somewhat favorable	50	49	50	39
Subtotal, favorable	81	71	75	65
Somewhat unfavorable	3	14	5	11
Very unfavorable	2	3	1	6
Subtotal, unfavorable	5	17	6	17
No opinion	14	12	19	18
Total	100	100	100	100
Opinion of Mexico:				
Very favorable	14	11	12	15
Somewhat favorable	61	57	48	56
Subtotal, favorable	75	68	60	71
Somewhat unfavorable	14	15	21	15
Very unfavorable	5	4	5	6
Subtotal, unfavorable	19	19	26	21
No opinion	6	13	14	8
Total	100	100	100	100
Opinion of U.S.S.R.:				
Very favorable	3	1	4	8
Somewhat favorable	16	5	11	15
Subtotal, favorable	19	6	15	23
Somewhat unfavorable	25	27	27	25
Very unfavorable	46	58	42	35
Subtotal, unfavorable	71	85	69	60
No opinion	9	9	16	17
Total	99	100	100	100
Opinion of Cuba:				
Very favorable	2	1	3	6
Somewhat favorable	7	2	8	8
Subtotal, favorable	9	3	11	14
Somewhat unfavorable	18	28	27	26
Very unfavorable	68	62	54	45
Subtotal, unfavorable	86	90	81	71
No opinion	5	7	8	15
Total	100	100	100	100
Opinion of Nicaragua:				
Very favorable	2	1	3	2
Somewhat favorable	4	3	9	5
Subtotal, favorable	6	4	12	7
Somewhat unfavorable	16	36	37	30
Very unfavorable	75	55	45	56
Subtotal, unfavorable	91	91	82	86
No opinion	3	5	6	7
Total	100	100	100	100

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Opinion of Costa Rica:				
Very favorable	N.A.	32	27	31
Somewhat favorable	N.A.	57	54	48
Subtotal, favorable	N.A.	89	81	79
Somewhat unfavorable	N.A.	4	6	9
Very unfavorable	N.A.	1	1	3
Subtotal, unfavorable	N.A.	5	7	12
No opinion	N.A.	6	12	9
Total	N.A.	100	100	100
Opinion of Panama:				
Very favorable	25	27	20	31
Somewhat favorable	65	58	57	45
Subtotal, favorable	90	85	77	76
Somewhat unfavorable	4	5	6	7
Very unfavorable	1	(1)	1	2
Subtotal, unfavorable	5	5	7	9
No opinion	5	10	16	15
Total	100	100	100	100
Opinion of Honduras:				
Very favorable	9	N.A.	15	20
Somewhat favorable	60	N.A.	59	48
Subtotal, favorable	69	N.A.	74	68
Somewhat unfavorable	19	N.A.	17	21
Very unfavorable	2	N.A.	1	3
Subtotal, unfavorable	21	N.A.	18	24
No opinion	10	N.A.	8	8
Total	100	N.A.	100	100
Opinion of El Salvador:				
Very favorable	6	10	N.A.	4
Somewhat favorable	42	44	N.A.	12
Subtotal, favorable	48	54	N.A.	16
Somewhat unfavorable	37	32	N.A.	55
Very unfavorable	8	8	N.A.	24
Subtotal, unfavorable	45	40	N.A.	79
No opinion	7	6	N.A.	5
Total	100	100	N.A.	100
Opinion of Guatemala:				
Very favorable	10	13	17	N.A.
Somewhat favorable	62	60	61	N.A.
Subtotal, favorable	72	73	78	N.A.
Somewhat unfavorable	15	17	12	N.A.
Very unfavorable	4	2	1	N.A.
Subtotal, unfavorable	19	19	13	N.A.
No opinion	9	8	9	N.A.
Total	100	100	100	N.A.

[1] Signifies less than 0.5%.

N.A. = Not asked.

Table 41—"And now a question about our country and the U.S. In most matters that concern our country and the U.S., would you say U.S. treatment of our country generally has been very fair, somewhat fair, not very fair, or not at all fair?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very fair	27	23	25	16
Somewhat fair	59	61	50	53
Subtotal, fair	86	84	75	69
Somewhat unfair	8	11	17	25
Very unfair	2	2	2	3
Subtotal, unfair	10	13	19	28
No opinion	4	3	6	3
Total	100	100	100	100

(Question 50)

Table 42—"In most matters that concern our country and the U.S., would you say the U.S. treats our country with much respect, some respect, some disrespect, or much disrespect?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Much respect	40	26	27	16
Some respect	51	55	50	54
Subtotal, respect	91	81	77	70
Some disrespect	6	14	17	23
Much disrespect	3	4	6	7
Subtotal, disrespect	9	18	23	30
No opinion	(1)	1		
Total	100	100	100	100

(Question 51)

[1] Signifies less than 0.5%.

Table 43—"Thinking of the relationships between our country and the U.S., which country benefits the most—does the U.S. benefit the most, does (survey country) benefit most, or are the relationships more or less equally beneficial?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
United States benefits most	26	37	33	51
Equally beneficial	51	45	43	36
Survey country benefits most	19	13	20	10
No opinion	4	5	4	3
Total	100	100	100	100

(Question 52)

Table 44—"[Ask in Honduras only] As you may know, Honduras and the U.S. have conducted various joint military maneuvers here in Honduras. What is your opinion of the presence of "militares norteamericans" in Honduras—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Strongly approve		40		
Somewhat approve		45		
Subtotal, approve		85		

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Somewhat disapprove		7		
Strongly disapprove		4		
Subtotal, disapprove		11		
No opinion		4		
Total		100		
(Question 53)				

ASK IN HONDURAS ONLY

Table 45—Here is a list of things some people have said about these joint military maneuvers. For each of these statements, please tell me whether you agree strongly, agree somewhat, disagree somewhat or disagree strongly?"

THE MANEUVERS LINK HONDURAS TOO CLOSELY WITH THE UNITED STATES

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Strongly agree		37		
Somewhat agree		42		
Subtotal, agree		79		
Somewhat disagree		12		
Strongly disagree		1		
Subtotal, disagree		13		
No opinion		8		
Total		100		

THE MANEUVERS ARE DANGEROUS, COULD LEAD TO CONFLICT WITH NICARAGUA

	Costa Rica	Honduras	El Salvador	Guatemala
Strongly agree		24		
Somewhat agree		35		
Subtotal, agree		59		
Somewhat disagree		28		
Strongly disagree		7		
Subtotal, disagree		35		
No opinion		6		
Total		100		

THE MANEUVERS ARE GOOD TRAINING FOR HONDURAN FORCES

	Costa Rica	Honduras	El Salvador	Guatemala
Strongly agree		60		
Somewhat agree		27		
Subtotal, agree		87		
Somewhat disagree		6		
Strongly disagree		1		
Subtotal, disagree		7		
No opinion		5		
Total		100		

THE MANEUVERS ARE A SIGN OF U.S. COMMITMENT TO OUR NATIONAL SECURITY

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Strongly agree		33		
Somewhat agree		40		
Subtotal, agree		73		
Somewhat disagree		13		
Strongly disagree		6		
Subtotal, disagree		19		
No opinion		8		
Totals		100		

THE MANEUVERS ARE A WAY TO DETER ATTACK ON US FROM NICARAGUA.

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Strongly agree		54		
Somewhat agree		25		
Subtotal, agree		79		
Somewhat disagree		9		
Strongly disagree		6		
Subtotal, disagree		15		
No opinion		6		
Totals		100		

(Question 54)

Table 46—"In general, how would you say things are going in our country—are they going well or are they going badly?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Well	47	19	3	13
Badly	53	81	97	87
Totals	100	100	100	100
(Question 2)				

Table 47—"How would you describe the economic situation of our country—very good, fairly good, fairly bad, or very bad?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very good	1	1		1
Fairly good	42	20	3	13
Subtotal, good	43	21	3	14
Fairly bad	47	61	54	64
Very bad	10	18	43	22
Subtotal, bad	57	79	97	86
Totals	100	100	100	100
(Question 4)				

Table 48—"In the next two years, do you think economic conditions are going to get much better, get somewhat better, stay about the same, get somewhat worse, or get much worse?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Will improve much	3	4	1	2
Will improve some	31	24	9	25
Subtotals, improve	34	28	10	27
Will stay the same	23	34	21	28
Will get somewhat worse	30	15	26	26
Will get much worse	10	11	33	15
Subtotals, worse	40	26	59	41
No opinion	3	12	10	4
Totals	100	100	100	100
(Question 5)				

Table 49—"Here is a list of problems that some people say our country is facing today. Please read over this list and then tell me: which problem is the most important? And second in importance?" Rotate order of problems on list.

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Illicit traffic in narcotics	36	11	4	11
Unemployment	26	65	53	51
Inflation/the high cost of living	25	22	57	44
Corruption	25	20	25	21
Foreign debt	16	6	7	17
Political stability within our country	8	9	23	17
Not enough good housing	29	16	17	22
The threat from other countries	15	32	7	8
Refugees from other countries	17	15	3	6
None of these	3	2	3	
No opinion, don't know		1		
(Question 3)				

Note.—Totals add to more than 100 percent due to multiple response.

Table 50—"What is your opinion of this statement: 'The people of Central America are best off when they live in a democracy'—do you agree strongly, agree somewhat, disagree somewhat, or disagree strongly?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Agree strongly	83	66	47	27
Agree somewhat	10	24	31	47
Subtotal, agree	93	90	78	74
Disagree somewhat	2	3	8	18
Disagree strongly	1	2	4	5
Subtotal, disagree	3	5	12	23
No opinion	4	5	10	3
Totals	100	100	100	100
(Question 12)				

Table 52—"What country, if any, has helped to make (survey country) a democracy?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
U.S.	32	61	51	42
Costa Rica		8	4	7
Venezuela	2	1	14	4
Panama	3	1	1	2
A national tradition	11	1		1
Europe		1	6	12

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Others	4	4	10	15
None	11	2	9	1
No opinion, don't know	43	28	30	31

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
(Question 13)				

Note.—Figures will add to more than 100 percent due to multiple mentions.

Table 51—"This card lists different groups or institutions in our country. Would you please read over the list, and then tell me which two contribute most to the well-being of our country?" "Now please look at the list again. Which two groups contribute least to the well-being of our country?"

[In percent]

	Costa Rica (1212)			Honduras (1291)			El Salvador (1303)			Guatemala (1277)		
	Contribute most	Least	Net score	Most	Least	Net score	Most	Least	Net score	Contribute most	Least	Net score
Private enterprise leaders	36	15	+21	45	18	+27	56	6	+50	33	24	+9
Peasant organizations	33	6	+27	22	9	+13	28	8	+20	23	10	+13
The clergy	27	7	+20	13	7	+6	20	12	+8	13	9	+4
Political figures	23	19	+4	10	37	−27	15	39	−24	9	30	−21
Journalists	16	8	+8	17	10	+7	8	11	−3	16	13	+3
University students	15	6	+9	11	7	+4	6	14	−8	22	9	+13
University professors	13	7	+6	22	6	+16	7	7	0	22	5	+17
Labor union leaders	12	26	−14	19	14	+5	6	28	−22	23	10	+13
Labor union members	12	12	0	13	11	+2	9	15	−6	22	10	+12
Military leaders	4	44	−40	9	26	−17	24	27	−3	7	38	−31
Large landholders	3	42	−39	4	40	−36	11	19	−8	5	37	−32
No answer	3	3		6	7		4	6		1	2	
(Question 11)												

DEMOGRAPHIC CHARACTERISTICS

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Sex of Respondent:				
Male	51	49	50	50
Female	49	51	50	50
Total	100	100	100	100
Age:				
18–24 yrs.	27	28	28	28
25–29	16	14	14	16
30–34	12	12	12	12
35–39	10	10	11	10
40–49	14	14	16	15
50–59	9	11	9	10
60 and over	12	11	10	9
Total	100	100	100	100
Objective measure of economic level—No. of light bulbs in dwelling:				
1–6 bulbs	42	70	55	64
7–9	29	15	27	20
10–12	15	4	9	9
13–15	6	1	4	4
16–18	3	1	1	1
19–24	2	1	1	1
25 and over	2	1	1	1
No answer	1	7	2	1
Total	100	100	100	100
Interviewer rating—relative socio-economic class:				
Class A/B	11	5	2	2
C	62	42	55	38
D/E	27	53	43	60
Total	100	100	100	100
Educational level:				
None	3	7	5	4
Primary, incomplete	14	24	19	16
Completed primary school	23	17	14	18
Some secondary	21	22	21	24
Completed secondary	19	20	25	27
Some university	14	7	14	9
Completed university	6	3	2	2
Total	100	100	100	100
Occupation:				
Student	11	14	16	14
Housewife	31	29	22	24
Sales, clerical, commerce	9	10	14	15
Specialized worker	9	12	12	10
Professionals, managers	9	11	9	12
Agricultural worker	6	5	2	7
Non-farm worker	5	8	6	3

DEMOGRAPHIC CHARACTERISTICS—Continued

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Government worker	5	4	9	6
Other category	7	1	3	4
Unemployed	4	5	5	3
Retired	4	1	2	2
Total	100	100	100	100

QUESTIONNAIRE USED IN CENTRAL AMERICAN PUBLIC OPINION SURVEY—JANUARY 1987

Introduction: Good morning/afternoon/evening. My name is —— (show identification) and I work for the CID research company, which specializes in studies of public opinion and marketing. We are interviewing adults in Central America about some matters of international interest. Would you be willing to give me some 25 minutes of your time to talk about these matters? Thank you.

1. Filter question: Are you a citizen 18 years of age or over? IF YES: What is your age? If no, discontinue.

2. In general, how would you say things are going in our country—are they going well or are they going badly?

3. Here is a list of problems that some people say our country is facing today. Please read over this list and then tell me which problem is the most important? And second in importance? Rotate order of problems on list.

Illicit traffic in narcotics;
Unemployment;
Inflation/the high cost of living;
Corruption;
Foreign debt;
Political instability within the country;
Not enough good housing;
The threat from other countries;
Refugees from other countries.

4. How would you describe the economic situation of our country—very good, fairly good, fairly bad, or very bad?

5. In the next two years, do you think economic conditions are going to get much better, get somewhat better, stay about the same, get somewhat worse, or get much worse?

6. Now a question about the future. Some people say that our country will probably be attacked militarily by another country in the next two or three years. Other people say that while this is possible, it is not likely. What do you think—would you say that an attack on our country in the next two or three years is very likely, fairly likely, not very likely, or not at all likely?

7. If answered very or fairly likely in preceding question, ask: Which country is the one that would attack? Any other?

8. Ask all: Which country, if any, would come to our aid immediately, if we were attacked? Any other?

9. Which country, if any, is trying to weaken our government? Any other?

10. Which country, if any, is trying to keep our government stable?

11. Which country, if any, provides support for guerrilla or insurgent forces here in our country? Any other?

12. What is your opinion of this statement: "The people of Central America are best off when they live in a democracy." Do you agree strongly, agree somewhat, disagree somewhat, or disagree strongly?

13. Which country, if any, has helped to make (survey country) a democracy?

14. All countries have their good aspects and possibly others not so good. Taking into consideration all aspects, what general opinion do you have of (name of country)—very favorable, somewhat favorable, somewhat unfavorable, or very unfavorable? Ask about each of the following, but not the country in which survey being conducted:

Panama, Honduras, Costa Rica, El Salvador, Guatemala, Nicaragua, Cuba, Mexico.

15. Now I would like to ask your opinion about some countries not in Latin America. The Soviet Union, Spain, The United States, Japan.

16. Now some questions about Nicaragua. What is your opinion of the Sandinista gov-

ernment in Nicaragua—very favorable, somewhat favorable, somewhat unfavorable, or very unfavorable, or haven't you heard enough about the government in Nicaragua to have an opinion?

17. Show list of four names. Which of these men is the current President of Nicaragua? Alfonso Robelo, Arturo Cruz, Daniel Ortega, Ernesto Cardenal.

18. Would you say the government of Nicaragua represents the majority of the people, or that it represents a minority?

19. In the last year, do you think the government of Nicaragua has become more democratic, less democratic, or has not changed very much, or haven't you heard enough to say?

20. How responsive to the majority of the Nicaraguan people is the present Sandinista government—very responsive, somewhat responsive, not very responsive, not responsive at all, or haven't you heard enough to say?

21. How free do you think the people in Nicaragua are to say openly what they think about their government and its policies—would you say they can speak very freely, somewhat freely, not very freely, or cannot speak freely at all, or don't you know enough about it to say?

22. How much effort is the government of Nicaragua making to protect the human rights of the people—a great deal of effort, some effort, little effort, or no effort at all—or don't you know?

23. How does the government of Nicaragua treat the people—very justly, somewhat justly, with little justice, or not justly at all—or don't you know?

24. How much have you heard about the armed conflict in Nicaragua between the forces of the Sandinista government and the forces of the opposition, known as "Contras"—a great deal, a fair amount, little or nothing at all?

25. Who do you think is winning the war in Nicaragua—the Sandinista government forces or the Contra opposition forces?

26. Who do you think will eventually win the war in Nicaragua—the Sandinista government forces of the Contra opposition forces?

27. Which country or countries can you name that have sent arms or money to the Contra opposition forces?

28. Will it be better for Nicaragua if the Sandinista government forces win the war, or if the Contra opposition forces win?

29. Will it be better for our own country if the Sandinista government forces win, or if the Contra opposition forces win?

30, Which side in the conflict do you think the majority of the people of Nicaragua support—does the majority favor the Sandinista government forces, or favor the Contra opposition forces?

31. There are people living in the areas of Nicaragua where there is armed conflict between the Sandinista government forces and the Contra opposition forces. Which of these two forces generally treats the people with more consideration?

32. Some people say that if the Contra opposition forces win the conflict in Nicaragua, their leaders will have free elections and restore democracy. Other people say that the leaders of the Contras will seize power for themselves, and not establish democracy. Which of these views is closer to your own, or haven't you heard enough to say?

33. As you may know, the U.S. is giving military aid to the opposition forces known as Contras. What is your opinion about this—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?

34. The U.S. is also giving non-military aid to the Contra opposition forces. What is your opinion about this—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?

35. Do you agree or disagree that other governments in Central America should give aid to the Contra forces?

36. Here is a list of reasons some people give to explain why the U.S. is giving aid to be Contra opposition forces in Nicaragua. Please tell me which one of these reasons best explains why you think the U.S. is giving aid to the Contra opposition forces. And which other reason?

To protect the commercial interests of the U.S.

To prevent establishment of a communist government in Central America.

To put friends of the U.S. in power.

To help the economic development of the country.

To establish a democratic government for the sake of the people.

To establish U.S. military bases in the region.

To stop the Soviet Union and Cuba from expanding their influence.

37. Which foreign countries, if any, provide military aid to the Sandinista government forces in Nicaragua? Any other?

38. What is your opinion about provision of military aid by (name of first country mentioned) to the Sandinista government in Nicaragua—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?

39. Some people say that Nicaragua acts as an instrument of Cuba and of the Soviet Union in Central America and the Caribbean. Others say Nicaraguan policies and actions are independent of Cuba and the Soviet Union. Which view is closer to your own?

40. Now I would like to ask you a few questions about El Salvador. How much have you heard about the conflict in El Salvador between the government forces and the leftist revolutionary forces—a great deal, a fair amount, little, or nothing at all?

41. Will it be better for El Salvador if the government forces win the war, or if the leftist revolutionary forces win?

42. As best you know, which foreign countries are giving military aid to the leftist revolutionary forces in El Salvador, or haven't you heard enough to say? Any other?

43. As you may know, Cuba provides military aid to the leftist revolutionary forces in El Salvador. What is your opinion about the shipment of arms from Cuba to the leftist revolutionary forces—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?

44. Which foreign countries are giving military aid to the government forces in El Salvador, or haven't you heard enough to say?

45. As you may know, the U.S. is giving military aid to the government forces in El Salvador. What is your opinion about United States military aid to the government forces in El Salvador—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?

46. And now, about Cuba. Do you think Cuba represents a positive influence or a threat, in Central America?

47. Some people say that Cuba is acting as a tool of the Soviet Union in Central America and the Caribbean. Others say Cuba policies and actions are independent of the Soviet Union. Which view is closer to your own?

48. Some people say there would be no war in El Salvador if Cuba and Nicaragua were not supporting the leftist revolutionary forces. Others say there would be a war even if Cuba and Nicaragua were not involved. Which of these views is closer to your own?

49. Some people say that the Soviet Union has little to do with the armed conflicts in Central America. Others say that the Soviet Union actively foments armed conflicts in Central America. What do you think—USSR definitely foments conflict, probably does not conflict or definitely does not foment conflict?

50. And now a question about our country and the U.S. In most matters that concern our country and the U.S., would you say U.S. treatment of our country generally has been very fair, somewhat fair, not very fair, or not at all fair?

51. In most matters that concern our country and the U.S., would you say the U.S. treats our country with much respect, some respect, some disrespect, or much disrespect?

52. Thinking of the relationships between our country and the U.S., which country benefits the most—does the U.S. benefit the most, does (survey country) benefit most, or are the relationships more or less equally beneficial?

53. Ask in Honduras only: As you may know, Honduras and the U.S. have conducted various joint military maneuvers here in Honduras. What is your opinion of the presence of U.S. soldiers ("militaries norteamericanos") in Honduras—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?

54. Ask in Honduras only: Here is a list of things some people have said about these joint military maneuvers. For each of these statements, please tell me whether you agree strongly, agree somewhat, disagree somewhat or disagree strongly?

The maneuvers link Honduras very closely/too closely with the U.S. (Note: the Spanish word used in this question was "demasiado", which has two meanings: (1) very, very closely, and (2) too closely.)

The maneuvers are dangerous, could lead to conflict with Nicaragua.

The maneuvers are good training for Honduran forces.

The maneuvers are a sign of U.S. commitment to our national security.

The maneuvers are a way to deter attack on us from Nicaragua.

55. Ask all: In your opinion, can the U.S. be relied upon to help us defend our country in case of future military attack?

56. As you may know, the countries in the Contadora group—Mexico, Venezuela, Colombia and Panama—are trying through negotiations to bring peace to Central America. From what you have heard, how likely is it that they will succeed in bringing peace within the next two years— is it very likely, fairly likely, not very likely, or not at all likely?

57. Show card. This card lists different groups or institutions in our country. Would you please read over the list, and then tell me which two contribute most to the well-being of our country?

Now please look at the list again. Which two groups contribute least to the well-being of our country?

List: Business leaders; Labor leaders; Union members; Journalists; University pro-

fessors; University students; Political leaders; Church leaders; Large landowners; Peasant organizations; Military leaders.

58. When you get together with your friends, relatives, or fellow workers, how often would you say you discuss political matters—frequently, occasionally, or never?

59. When you yourself hold a strong opinion, do you ever find yourself persuading your friends, relatives or fellow workers to share your views, or not? Yes, often; Yes, from time to time; Rarely; No.

60/61. With respect to politics in general today, do you tend to sympathize more with any one political party than you do with the others? IF YES: With which political party? IF NO: Are the positions on public issues taken by any political party fairly close to your own views? IF YES: Which party?

62/63. Now, about yourself. Of what religion are you?

64. And how often do you go to religious services?

65. And how many years of formal education have you completed?

66. Have you studied outside the country? IF YES: In which country?

67. What is your present occupation?

68/69. Show card. This figure represents political orientation. The left side corresponds to a political ideology of the left. The right side corresponds to a political ideology of the right. The points in between represent positions between the two. Where would you place yourself on this figure? For those who place themselves at mid-point: We ask those who place themselves in the center whether they lean towards right center or left center?

Demographic Characteristics:

Sex—Interviewer rating of socio-economic class—objective index of economic level—type of dwelling—geographic area—country.●

ORDERS FOR THURSDAY

ARIAS RESOLUTION

Mr. BYRD. Mr. President, I ask unanimous consent that no amendments be in order to the Arias resolution.

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

ORDER FOR ADJOURNMENT UNTIL 8:45 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 8:45 a.m. in the morning.

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

REDUCTION OF LEADER TIME

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow the two orders of the two leaders, the two orders be reduced to not to exceed 5 minutes each.

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

MORNING BUSINESS

Mr. BYRD. Then, Mr. President, I ask unanimous consent that there be morning business until the hour of 9 a.m.

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

ARIAS RESOLUTION

Mr. BYRD. Mr. President, I ask unanimous consent that there be 20 minutes for debate on the Arias resolution with 10 minutes of that to be under the control of Mr. DODD.

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

Mr. BYRD. I ask that the remaining 10 minutes be under the control of the distinguished Republican leader or his designee.

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

ROLLCALL VOTE AT 9:20 TOMORROW MORNING

Mr. BYRD. That will cause the vote to begin then, Mr. President, at around 9:20 a.m.

I ask unanimous consent that the vote occur on the Arias resolution at 9:20 a.m.; that that be a 30-minute rollcall vote; that the call for the regular order occur at the expiration of the 30 minutes.

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

NO QUORUM CALL PRIOR TO ARIAS VOTE

Mr. BYRD. I ask that no quorum call be in order prior to that vote, the vote on the Arias resolution.

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

NO RESOLUTIONS AND MOTIONS OVER, UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow no motions or resolutions over, under the rule, come over.

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

CALENDAR CALL WAIVED

Mr. BYRD. Mr. President, I ask unanimous consent that the call of the calendar be waived on tomorrow.

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

EXEMPTION OF CERTAIN BANKRUPTCY CODE PROTECTIONS

Mr. BYRD. Mr. President, the distinguished Republican leader has authorized me to proceed with the consideration of Calendar Order No. 375, S. 1783, and so I make this request, stating that it has the approval of the Republican leader, Mr. DOLE.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1783) to extend certain protections under title II of the United States Code, the Bankruptcy Code.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 973

(Purpose: To change the date of extension)

Mr. BYRD. Mr. President, I send to the desk an amendment by Mr. METZENBAUM and ask it be read.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), for Mr. METZENBAUM, proposes an amendment numbered 973.

The amendment is as follows:

Strike out "December 31, 1987" and insert in lieu thereof "November 15, 1987".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 973) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 608(a) of Public Law 99-591 (100 Stat. 3341-74), section 2(a) of Public Law 99-656 (100 Stat. 3668), Public Law 100-41, and Public Law 100-99 are each amended by striking out "September 15, 1987" or "October 15, 1987", as the case may be, and inserting in lieu thereof "November 15, 1987".

SEC. 2. The amendments made by the first section shall be effective as of October 15, 1987.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REAUTHORIZATION OF FISHERMEN'S PROTECTIVE ACT

Mr. BYRD. Mr. President, the distinguished Republican leader has given his approval to my request that the Senate proceed to the consideration of Calendar Order No. 356. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 356, with the approval of the distinguished Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2893) to reauthorize the Fishermen's Protective Act.

AMENDMENT NO. 974

(Purpose: To extend existing authority to set aside certain surplus vessels for use in providing humanitarian services)

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. BREAUX and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. BREAUX, proposes an amendment numbered 974.

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

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

The amendment is as follows:

At the end of this bill, add the following:

SEC. 3. The Act entitled "An Act to set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries", approved October 22, 1982 (Public Law 97-360; 96 Stat. 1718), is amended—

(1) by striking "to the peoples of developing countries" wherever it is found; and

(2) in section 7, by striking "five calendar years after the date of enactment." and inserting in lieu thereof the following: "on October 22, 1989.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 974) was agreed to.

AMENDMENT NO. 975

(Purpose: To extend for 1 month the restrictions under Public Law 100-111)

Mr. BYRD. Mr. President, on behalf of Mr. DOLE, I send to the desk an amendment on behalf of Mr. STEVENS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], on behalf of Mr. DOLE, for Mr. STEVENS, for himself, Mr. EVANS, Mr. MURKOWSKI, Mr. BREAUX, and Mr. ADAMS, proposes an amendment numbered 975.

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

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

The amendment is as follows:

At the end of the bill, add the following:

SEC. 2. The Act entitled "An Act to temporarily restrict the ability to document foreign-built fish processing vessels under the laws of the United States", approved August 20, 1987 (Public Law 100-111; 101 Stat. 733), is amended by striking "October" and inserting in lieu thereof "November".

Mr. STEVENS. Mr. President, today I wish to propose an amendment to the authorization currently on the calendar extending the Fishermen's Protective Act for 1 year.

The amendment is intended to extend the interim moratorium on the documentation of foreign-built fish processing vessels established by Public Law 100-111 which expires on October 15 of this year. This interim legislation will extend the current moratorium until November 15, 1987.

Since enactment of the interim moratorium both the House and the Senate have been working diligently to complete an acceptable text of a bill which will deal effectively with this very complicated issue. Unless this moratorium is extended, foreign companies may again seek to take advantage of a loophole in current law allowing them to claim access to U.S. fisheries resources, thereby frustrating the policies of the Magnuson Fisheries Conservation and Management Act [MFCMA].

The Senate Commerce Committee and the House Merchant Marine and Fisheries Committee are in the process of developing legislation to correct the loophole in the documentation laws. During the course of this work another loophole in current law has been found which further complicates an already complex issue. Currently, U.S.-built vessels of any structural configuration can be almost entirely rebuilt in a foreign shipyard while still retaining the domestic preference under the MFCMA. I want to put foreign and domestic companies on notice that Congress is currently addressing this conversion issue. It is becoming apparent that some companies are "racing" to purchase vessels in anticipation of an eventual ban on foreign conversions. Until the Congress has resolved this issue, those companies are doing so at their peril.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 975) was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2893), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed and, Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 1526

Mr. BYRD. Mr. President, I ask unanimous consent that there be a star print of S. 1526, the correct text of which I send to the desk.

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

PROGRAM

Mr. BYRD. Mr. President, I remind all Senators that there will be a rollcall vote tomorrow morning beginning at 9:20 a.m. That will be a 30-minute rollcall vote. There will be no quorum prior to the vote. The automatic call for the regular order will occur at the expiration of the 30 minutes. Senators are reminded to be here on time so they not miss the rollcall vote. Further rollcall votes will occur during the day tomorrow.

Mr. President, there are several good prospects for actions on tomorrow. I state these as not being all inclusive but certainly as possibilities. I emphasize that the list does not exhaust the number of items that are possibilities: the war powers amendment, catastrophic illness, which is the unfinished business, and there are several appropriations bills waiting in the wings: the transportation appropriation bill, the HUD appropriation bill, State-Justice-Commerce appropriation bill, and the energy-water appropriation bill.

I emphasize that this is not an all-inclusive list. There may be other measures called up on tomorrow. We have plenty of work to do.

ADJOURNMENT UNTIL 8:45 A.M. TOMORROW

Mr. BYRD. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until 8:45 a.m. tomorrow.

The motion was agreed to, and at 7:45 p.m. the Senate adjourned until tomorrow, Thursday, October 15, 1987, at 8:45 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, October 14, 1987*

The House met at 10 a.m.

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

As we reflect, O God, on the demands of the day and try to relate the goals of justice and the needs of our Nation, we pray that You would give every person a sense of purpose for the tasks of life. With all the clamor for attention in busy lives, may there be moments of serenity and calm, of reflection and prayer, so that we may see more clearly to do the things that make for peace. Amen.

THE JOURNAL

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

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

IN SUPPORT OF THE HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT OF 1987

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

Mr. BRENNAN. Mr. Speaker, today the House will consider H.R. 162, the High Risk Occupational Disease Notification and Prevention Act.

I strongly support this legislation.

Workers have a right to know if they have been exposed to dangerous materials in the workplace. Early medical attention is a most important factor in preventing or mitigating occupational disease.

For example: The 5-year survival rate for bladder cancer is 87 percent when detected in the early stages. When the cancer is more advanced, the survival rate drops to 38 percent. According to OSHA, roofers, chemical workers, and construction workers may be at risk for this type of cancer.

When colon cancer is detected and treated early, the 5-year survival rate is 86 percent, compared to only 39 percent after the cancer has spread. Men and women who manufacture carpeting, blankets, and draperies may be at risk.

Farmers, sailors, and arc welders may be at risk of skin cancer as a result of their exposure to ultraviolet rays. Early detection is very important here—the 5-year survival rate for localized skin cancers is about 90 percent. Once they have spread, this drops to 46 percent.

Even lung cancer can be fought more effectively if detected early. While the survival rate is not quite as impressive as the others—33 percent if detected early, 13 percent if the cancer has spread—this is an important difference to those afflicted with this terrible form of cancer.

Many agents have been implicated in causing lung cancer, including asbestos, soots, tars, and plastics. A wide variety of workers may be at risk, from shipyard workers to jewelry makers.

Occupational disease costs business billions in disability payments every year. But it costs American workers something much more precious. Their health.

H.R. 162 will give us the tools to locate and treat at-risk workers before it's too late.

I urge my colleagues to support this legislation.

THE CONSIDERATION OF POLITICAL PHILOSOPHIES OF SUPREME COURT NOMINEES

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

Mr. JACOBS. Mr. Speaker, in 1980, when Mr. Reagan ran for President, he pledged as part of his platform that he would try to put people on the Supreme Court with conservative political philosophies. Yesterday he berated the U.S. Senate for considering political philosophy when participating in the appointment of Justices to the Supreme Court.

I will be happy at this time to yield to any Member of the House who can show me any place in the Constitution where it says in the case of the joint responsibility of the President and the Senate to decide on Supreme Court members, the President shall do it on a political basis and the Senate shall not.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from California. And let me say, I want a specific citation.

Mr. DANNEMEYER. Mr. Speaker, the citation I will give to my colleague is the election of November 1984.

Mr. JACOBS. Mr. Speaker, the gentleman is confused. I said, the Constitution of the United States——

Mr. DANNEMEYER. That was when the people of America made the decision on the philosophy of the person who gets to assign a nominee of the Supreme Court.

Mr. JACOBS. Mr. Speaker, the gentleman is confused. Let me repeat.

I will yield to any Member of the House who will show me the provision in the Constitution that says that in the joint responsibility for putting people on the U.S. Supreme Court the President shall be political, and the Members of the Senate shall not. Will the gentleman tell me, or will anybody else tell me?

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

The SPEAKER. The time of the gentleman from Indiana [Mr. JACOBS] has expired.

ATM CRIME—A GROWING PROBLEM

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

Mr. BIAGGI. Mr. Speaker, for more than a year, I have been pushing for a law to help combat a growing crime problem at our Nation's 68,000 automated teller machines. New evidence just released by the Bank Administration Institute suggests the need for this legislation is greater than ever.

The BAI study, which included a survey of the largest 380 ATM operators in America, revealed some alarming trends. For example, their survey found that the majority of violent ATM-related crimes occurred at sites with no security cameras—58 percent—and at sites with no controlled access—84 percent. Further, the BAI study concluded that a mere 2 percent of ATM's have customer-activated emergency alarms, and only 27 percent have implemented customer security education programs.

Mr. Speaker, the nearly 60 million Americans who use ATM's deserve an improved measure of security. That is why my bill, H.R. 785, would establish security standards for ATM's, and recommends that security cameras, controlled access features, emergency alarms and customer education programs be considered in the development of those standards.

But, that's not all. My bill would also require the FBI to keep national data on this new crime problem, and it would provide enhanced Federal penalties for ATM fraud, which robs our banks of some $100 million annually.

Mr. Speaker, by 1990, ATM business in this country is expected to double.

We must do all we can to ensure that this rise in ATM business is not accompanied by a comparable rise in ATM crime. The passage of my bill, the Automated Teller Machine Crime Prevention Act, is the first responsible step.

WHO DECIDES THE POLITICAL PHILOSOPHY OF A SUPREME COURT NOMINEE?

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

Mr. DANNEMEYER. Mr. Speaker, my colleague, the gentleman from Indiana [Mr. JACOBS] raised a question earlier about the ability of the President or the U.S. Senate to decide the political philosophy of a nominee to the U.S. Supreme Court. Historically, this issue has been resolved in favor of the President of the United States being the individual vested with the responsibility and privilege of deciding the philosophy of the nominee.

What we Americans witnessed in the recent debacle in the consideration by the U.S. Senate of the effort of President Reagan to place Justice Bork on the U.S. Supreme Court was a complete distortion of how the U.S. Senate has been involved in the issue of confirmation. Historically the issue has been this by the Senate: Is the gentleman or the lady competent? Do they have a judicial temperament? And are they a person of integrity? The issue is not their philosophy. But the U.S. Senate under the Democratic administration has now changed the whole basis for consideration of nominees to the U.S. Supreme Court and has said the President does not get to decide the philosophy of the nominee, that the U.S. Senate is going to decide the philosophy of the nominee.

I commend Justice Bork for the great courage he has demonstrated at a personal loss, to stand there in the face of this onslaught and the diatribe he has suffered as a result of this distortion of the function of the U.S. Senate.

Mr. Speaker, let those Members of the U.S. Senate now put their votes where their mouths have been. The distortion campaign is over. Let those Senators now defend themselves to the States from which they come.

TIME TO INVOKE THE WAR POWERS ACT

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

Mr. TRAFICANT. Mr. Speaker, Iran attacked Baghdad a second time yesterday. On the first attack last week, the news reports were very simple, and I quote: they just said, "many dead." Yesterday's attack reported 72 dead and 216 injured. These include school kids, elementary school kids.

Iraq has now said they will attack Tehran. In Iran they continue to shout, "Yankee, go home."

While all this is going on, the President just continues to roll the dice in what may be the most expensive and dangerous crap shoot in American history.

It is time to invoke the War Powers Act. The scenario in the gulf is getting uglier by the minute. This President is sitting somewhere up in an ivory tower in the Oval Office while the greatest import possibility might be our own troops in body bags.

We have escalated this crisis in the gulf. He has now said we will not support any other troops but those 11 Kuwaiti tankers. He is not talking like Clint Eastwood now. He knows it is getting dangerous.

Mr. Speaker, let us invoke the War Powers Act and bring some sanity to this very dangerous scenario in the gulf.

THE BOMB

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

Mr. LOTT. Mr. Speaker, on Times Square in New York City, New Year's Eve is traditionally observed by watching a descending red apple mark the countdown to midnight. Here in the Congress we mark the fiscal New Year by bracing ourselves for the impact of a descending red-ink "BOMB." That stands for bloated omnibus money bill, sometimes mistakenly referred to as a continuing appropriations resolution or CR. But this is not a short-term, stopgap CR; it's full year, fully funded, and fully packed.

Mr. Speaker, if our viewing audience missed our fiscal New Year's celebration on October 1, it's for good reason: We have, in effect, delayed the fiscal year until mid-November with a 40-day CR, delayed reconciliation, and delayed sequestration, if necessary. Put another way, we put a time-delay fuse on the "BOMB." Are we using these intervening days to finish work on regular appropriations and send them to the President? No, we're still piddling along, waiting for this whole mess to blow up in our faces. Let's defuse the "BOMB" now and restore legislative and fiscal sanity to this House.

PRESIDENT ARIAS CONGRATULATED ON NOBEL PEACE PRIZE

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

Mr. OWENS of Utah. Mr. Speaker, like most of my colleagues, I was delighted to learn yesterday that President Oscar Arias Sanchez had been awarded the Nobel Peace Prize. President Arias, the Nobel Committee decided, has "made an outstanding contribution to the possible return of stability and peace to a region long torn by strife and civil war." The peace plan, the Nobel Committee found, "lays solid foundations for the further development of democracy and for open cooperation between peoples and states."

Everybody, it seems, except perhaps President Reagan, wants this peace offensive to succeed. With the blessing and stimulus of this, the world's most prestigious prize for peacemaking, the momentum builds in Congress to reject additional military aid to Nicaragua's Contras and to end America's misbegotten Nicaraguan adventure. Special appreciation should go to Speaker WRIGHT for his courage in stepping forward at a critical time and for his strong leadership in preventing the administration from scuttling the peace process.

The road to peace in Central America does not stop with the presentation of the Nobel Peace Prize and no one knows this better than President Arias. The peace process is in a critical stage as the various nations work toward complying with the preliminary peace accord. The United States must avoid the appearance that we are sitting and waiting, with guns in hand, for the November 7 date to arrive without all peace provisions readied. As President Arias has stated, "nobody is going to scare me with the calendar."

If, by November 7, there has been genuine progress, and there has been remarkable movement already, then Congress must keep the peace process moving, not allow it to be derailed by the Reagan-Contra Express. The difficult question here is: Why isn't the Reagan administration a facilitator toward peace, instead of a barrier?

RESOLUTION DISAPPROVING THE D.C. EARLY RELEASE ACT

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

Mr. PARRIS. Mr. Speaker, after completion of the 1-minute remarks this morning, I will move to consider House Joint Resolution 341, a resolution disapproving the D.C. Early Release Act. Prior to full consideration of this matter, however, we must approve a privileged motion to discharge the resolution from committee, perhaps following a motion to table, which may be offered.

So there won't be any misunderstanding, a vote for the motion to table or against the motion to discharge is a vote to approve a law that allows child molesters, armed robbers, drug dealers, and other inmates who assault our citizens to be released from jail well before they have served their time:

Eighty percent of those released have been convicted of such violent crimes as armed robbery, assault, assault with intent to kill, and other similar offenses.

A vote for a motion to table is a vote for revolving-door justice and is a vote to violate the public trust—clearly, it is a vote to compromise the safety of the millions of residents of and visitors to our Nation's Capital.

We cannot hide behind the Home Rule Act on this critical issue. We have a constitutional obligation to exercise legislative authority over the District of Columbia. We must remember that the principal reason Home Rule passed in the first place is because of the assurances of its proponents that the legislative oversight responsibilities of the Congress would be fully preserved.

If we fail to disapprove of D.C. Act 7-56, we are going on record in support of this violence against law abiding citizens. We will all have to answer for that next year at the polls.

I urge my colleagues to support law and order. Vote no on the motion to table and yes on the motion to discharge.

□ 1015

TENTH ANNIVERSARY OF MOBILE MEAL SERVICE OF SPARTANBURG COUNTY

(Mrs. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. PATTERSON. Mr. Speaker, this week marks a milestone for a very special group of Spartanburg County, SC, residents and professionals. Before October 3, 1977, shut-ins in Spartanburg County had no place to turn for a hot meal or a few moments of companionship.

However, on October 3, 1977, the situation changed for the better. With a lot of inspiration and hard work, a group of 15 volunteers began providing hot, nutritious meals to 25 homebound area residents.

Ten years have passed since Mobile Meal Service fed those people that first meal. The nonprofit volunteer organization, which receives no Government funds, now serves meals to 925 people each day, providing not only a hot, nutritious meal, but also badly needed contact with other people. Volunteers provide all its financing.

The motto of Mobile Meal Service of Spartanburg County is "Love in Action." What an appropriate motto for a group of private citizens and businesses that pulled together to help the mentally or physically impaired.

So today, Mr. Speaker, I salute the 10th anniversary of Mobile Meals of Spartanburg County. Their exemplary work provides a model of commitment to the community that we could all benefit from following.

PRESIDENT OSCAR ARIAS RECEIVES 1987 NOBEL PEACE PRIZE

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, yesterday was an eventful day. President Oscar Arias of Costa Rica was named the recipient of the 1987 Nobel Peace Prize. This recognition of President Arias' pivotal role in the pursuit of peace in Central America reflects international support for his endeavors and contributes to the peace plan's chances for success.

While the world community was lauding President Arias' activities, the Secretary of State presented the administration's case for more Contra aid to the House Foreign Affairs Committee. Secretary Shultz declared the administration's support for the Guatamala peace plan. Then he stated that the administration would request $270 million for the Contras before Thanksgiving. How does one support peace and request funds for insurgents at the same time?

Mr. Speaker, the administration's rhetoric may have softened slightly over the past several weeks, but there is no doubt that the substance is the same. The President is determined to pursue his ill-fated and ill-conceived policy of aiding the Contras. His determination to pursue a military solution is one of the greatest threats to the peace process. It is time for the President and his administration to join the global community to wholeheartedly, without reservation, endorse, embrace, and encourage peace in Central America.

DISAPPROVING ACTION OF DISTRICT OF COLUMBIA COUNCIL IN APPROVING "PRISON OVERCROWDING EMERGENCY POWERS ACT OF 1987"

Mr. PARRIS. Mr. Speaker, pursuant to section 604(e) of Public Law 93-198, as amended by Public Law 98-473, I move to discharge the Committee on the District of Columbia from the further consideration of the joint resolution (H.J. Res. 341) disapproving the action of the District of Columbia Council in approving the Prison Overcrowding Emergency Powers Act of 1987, District of Columbia Act 7-56.

The SPEAKER. The Chair will inquire, is the gentleman from Virginia in favor of the joint resolution?

Mr. PARRIS. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. PARRIS moves that pursuant to section 604(e) of Public Law 93-198, as amended by Public Law 98-473, the Committee on the District of Columbia be discharged from the further consideration of the joint resolution (H.J. Res. 341) disapproving the action of the District of Columbia council in approving the Prison Overcrowding Emergency Powers Act of 1987, District of Columbia Act 7-56.

The SPEAKER. Pursuant to section 604(e) of Public Law 93-198, as amended by Public Law 98-473, the gentleman from Virginia [Mr. PARRIS] will be recognized for 30 minutes and the gentleman from California [Mr. DELLUMS] will be recognized for 30 minutes in opposition.

Is the gentleman from California [Mr. DELLUMS] opposed to the motion to discharge?

Mr. DELLUMS. I am, Mr. Speaker.

The SPEAKER. The gentleman from California qualifies and will be recognized for 30 minutes in opposition to the motion.

The Chair recognizes the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I yield myself such time as I may consume.

Let me indicate initially in my remarks and just take a moment to make certain that all of the Members understand that this action this morning is not intended to be adverse to the gentleman from California [Mr. DELLUMS], the chairman of the Committee on the District of Columbia.

It is not intended as criticism of any kind of the committee or of any member thereof, or of the chairman specifically or the chairman's leadership.

This gentleman from California and I have a good relationship. The gentleman is scrupulously fair. Although we do not always agree on the political implications of various measures, I have a high and profound regard for the gentleman's abilities and for the gentleman as an individual.

We are faced, however, with the fact that the discharge of the committee in this case is simply required by the parliamentary situation.

We have no alternative but to take the position that we have, if we are going to address this problem.

The question can and should be asked obviously, why should we address this problem. The simple answer is, because it is consistent with our responsibilities as the chief legislative body in this, the Nation's Capital, the center of the free world.

Let me read to you a portion of article I, section 8, clause 17 of the U.S. Constitution.

It says:

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States * * *.

That is the original U.S. Constitution language.

Mr. Speaker, let me read to you current law, which is section 601 of the Home Rule Act adopted in 1973, and that act which applies to this Congress and gives this Congress its mandate to act in this regard and in other similar circumstances. It reads as follows:

Notwithstanding any other provision of this Act, the Congress of the United States reserves the right at any time to exercise its constitutional authority as legislature for the District by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the Council by this Act, including legislation to amend or repeal any law enforced in the District prior to or after enactment of this Act, and any act passed by the Council.

That is an extremely broad grant of authority or continuation of authority to the Congress of the United States under the Home Rule Act.

The Members will hear a great deal of rhetoric, Mr. Speaker, this morning in debate on this matter about infringing on the prerogatives of the local government.

Let me review for the Members very quickly the criteria that are attempted to be promulgated by the committee as to when the Congress of the United States should exercise its constitutional responsibility for review.

First they would suggest that did the Council exceed the powers delegated to it under the Home Rule Act. We have just heard the language of the Home Rule Act, and it is extremely broad.

The second criterion is, is it a violation of the U.S. Constitution. I respectfully submit, Mr. Speaker, that we do not have to grossly violate the U.S. Constitution in order to mandate the congressional responsibility for oversight.

No. 3, the criterion would be, in the opinion of some, does the act impose upon or obstruct a Federal interest.

If we apply those criteria strictly, Mr. Speaker, it is tantamount to total abdication of the congressional responsibility for oversight, in any event.

If in fact you have to ask yourself, does the Home Rule Act permit actions that threaten the Federal presence in this Nation's Capital, do we, or must we put the Federal employees in jeopardy? Does the Home Rule Act permit violation of exiting criminal codes? I think not.

This action is not an infringement on home rule.

Mr. Speaker, if I might just quote from several distinguished current colleagues of ours in the debate on the Home Rule Act in the CONGRESSIONAL RECORD at page 30532 on September 19, 1973.

BROCK ADAMS, then a Member of this body from Washington and now a U.S. Senator from Washington, who will presumably, if this measure passes, have an opportunity to address it in the other body, Mr. ADAMS said this:

I might add, Mr. Speaker, that throughout considerations of this legislation—

And we are addressing now the adoption of the original Home Rule Act—

members of the committee foresaw a strong, vigilant, and ongoing role for the Congress. Under any form of self-government, the Congress still retains—and must retain—its constitutional obligation to exercise exclusive legislative authority over the District of Columbia. Whether that requirement takes the form of oversight, investigation negative veto of certain local actions or positive legislation to carry out its wishes, the Congress must act, where necessary, to protect the role of the Federal Government and to maintain the District of Columbia as the Capital for all American citizens.

He goes on to say:

Mr. Speaker, at this time, I would like to summarize briefly the protections of the Federal interest which the committee so carefully designed in H.R. 9682, the committee bill:

Reserves the rights of Congress to legislate for the District at any time and on any subject * * *.

On the next page of the CONGRESSIONAL RECORD, then Congressman BROCK ADAMS says again:

Mr. Speaker, the issue of the protection of the Federal interest was carefully considered throughout all stages of subcommittee and committee deliberations; the protections which H.R. 9682 affords are an intimate and integral feature of the committee's product and of its recommendation to the House that "the bill do pass."

Chairman Diggs, a distinguished Member of the Congress from Detroit, chairman of the Committee on District of Columbia at that time, says as follows on page 42036 of the CONGRESSIONAL RECORD, December 17, 1973:

* * * on congressional veto, the Senate was very strong on that and as a matter of fact I think I learned for the first time the real reason the Senate has been able to pass home rule in the past so expeditiously is because it was just felt in the other body that as long as there is a veto apparatus, as long as there is a congressional process to correct what they might consider to be a misaction on the part of a local legislative body, then they were inclined to be generous about it. So the veto was retained in the bill despite some misgivings about it from the self-determination purists among us in this body and beyond.

On page 42039 of the CONGRESSIONAL RECORD of December 17, 1973, the gentleman from Kentucky [Mr. NATCHER], senior Member revered by all the Members, and still a Member of this body, says that—

I further stated that Congress must retain full residual and ultimate legislative jurisdiction over the District in conformity with the constitutional mandate.

He goes on to say that we must review the actions of the District of Columbia Council.

Finally, Mr. NATCHER's words are as follows on the same day:

Our Nation's Capital is the most beautiful city in the world and this year some 20,000,000 visitors will come to visit with us. Certainly, every effort should be made to see that these people have an opportunity to visit the many different buildings and monuments without fear of being robbed or molested.

□ 1030

Now, Mr. Speaker, that brings me to the point of all this, and that is that this matter is one of public safety. I took a random sample of 112 of the nearly 900 criminals that have been released under this temporary legislation and we reviewed their criminal records. Eighty percent were classified as dangerous criminals. These include those persons convicted of assault, assault with intent to kill, felony weapons convictions, robbery, armed robbery, sexual offenses, and the like. Thirty-two percent were serving mandatory minimum sentences which were illegally reduced. Fourteen percent of those released under this program were rearrested within 30 days. Ninety-two percent of those persons released had in excess of two prior felony convictions.

The average number of prior convictions of the persons released was 6 and some had as many as 15 prior convictions, and they were released.

Sixty percent of all the inmates in this penal system test positive for drugs, while they are in the penitentiary.

In the first quarter of this year, in just 3 months, 1,126 inmates have been released through various release programs and of that number, 866 have been rearrested for the commission of 1,992 crimes, including murder, assault, drug peddling, weapons violations, and a series and host of other criminal and serious offenses.

It must be remembered, Mr. Speaker, that the act itself is faulty. It is not just a matter of implementation.

One of my greatest objections to this situation is that early release is not in this town an incremental portion of an overall plan. You will hear the argument made that there is a similar program in 17 other States, but I submit to you that they are not comparable. Time does not permit me now to go into them, other Members will, but they are not comparable programs.

This is in other States not the only remedy that exists for prison reduction of population. They utilize prison construction, they change the probation, they have rehabilitation, they have penal reforms. All we do in this town is let out convicted felons. It is

not a component of management of the penal system.

The profile of the average prisoner in this city is not comparable to other States. Because of the prison situation in the District of Columbia, only career criminals are incarcerated. First-time offenders are not put in jail, not second-time offenders, not third, only the career criminals go to jail in this town.

Mr. Speaker, I urge Members, my colleagues, to vote for the motion to discharge so that we can debate this matter fully on its merits. Let us have a full review of all the facts. Let me urge my colleagues to discharge our congressional responsibility under the Constitution and under the current law of the Home Rule Act and to address this problem which is a matter of serious public safety.

Let me inquire, Mr. Speaker, would the gentleman from California like to proceed or would the gentleman like me to proceed with other Members on our side?

Mr. DELLUMS. Mr. Speaker, the gentleman from California would like to proceed at this time.

Mr. PARRIS. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. GONZALEZ). The gentleman from California [Mr. DELLUMS] is recognized for 30 minutes.

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first set the parameters of this debate. The distinguished gentleman from Virginia [Mr. PARRIS] has offered a privileged motion to discharge the Committee on the District of Columbia from further consideration of this bill. That calls for 1 hour of debate. If the House proceeds to acquiesce in the gentleman's request, the House would then consider for up to 10 hours the substantive resolution of disapproval offered by the distinguished gentleman.

I would like to now focus on what we are concerned with at this moment, and that is the gentleman's motion to discharge the Committee on the District of Columbia.

Mr. Speaker, I am compelled—and I repeat for the purpose of emphasis—compelled to challenge the privileged motion of the gentleman from Virginia to discharge the Committee from further consideration of House Joint Resolution 341. This resolution seeks to disapprove the District of Columbia Act 7-56, a bill which the local city council passed as a remedy to a deteriorating prison overcrowding problem in the District of Columbia.

Before going any further, Mr. Speaker, let me, as my distinguished colleague from Virginia, quote from the purpose of the Home Rule Act, which provides the right for the local residents of the District of Columbia through their duly elected body to engage in the legislative process. The statement of purpose of the Home Rule Act states in part, and I quote:

> That we grant to the inhabitants of the District of Columbia powers of local government to modernize, reorganize, and otherwise improve the governmental structure of the District of Columbia and to the greatest extent possible consistent with the constitutional mandate relieve Congress of the burden of legislating upon essentially local District matters.

Mr. Speaker, the Members of the U.S. House of Representatives were elected to engage in the business of the Federal function, not to be a super City Council for the residents of the District of Columbia in this great democracy. The law that we are concerned with at this point, if indeed the gentleman's motion is to prevail, is a law that would authorize the Mayor of the District of Columbia in a declared state of emergency to release certain of its least dangerous offenders within 90 days of their minimum or maximum sentence.

Our committee, the Committee on the District of Columbia, by a vote of 8 to 0 rejected House Joint Resolution 341.

Before addressing this issue, Mr. Speaker, I want to focus the attention of my colleagues on the history of the privileged motion to discharge this or any other committee from consideration of a resolution. We must be reminded, Mr. Speaker, that this extraordinary procedural mechanism, that is, a privileged motion, is not intended merely to allow a Member to override a committee action. Rather, it is intended to be used particularly when a committee or its chairperson acts in an arbitrary, capricious, or dilatory manner.

Let me expand for you, Mr. Speaker, and to my distinguished colleague, the ranking minority member, the gentleman from Virginia [Mr. PARRIS]. The gentleman from Virginia has asserted in offering this privileged motion, he is in no way challenging the credibility or integrity of the Chair. As a matter of fact, the gentleman stated that this was intended as no criticism of the Chair or the committee. He was very laudatory a few minutes ago about the fairness and the integrity of the gentleman from California and the members of the District of Columbia Committee. That is an important assertion by the gentleman from Virginia, important for this reason. I believe, Mr. Speaker, and I would argue that the framers of the Home Rule Act did not intend that a privileged motion to discharge a committee of its responsibility would simply be a procedural matter that would allow a substantive issue to come before the body. To discharge a committee of its responsibility is a grave and significant act on the part of this House. We operate within the framework of a committee structure. We live or die on the basis of the principles of democracy. The majority rules, free and open and honest debate on any matter, and whenever a committee is discharged of its responsibilities when that chairperson is not in agreement with a motion to discharge, it is a grave act. You can look back at the history of the last 10 years. The only time a committee was discharged of its responsibility on a petition that requires 218 Members to sign to discharge a committee was on a busing issue, a highly controversial matter, and it was believed that the committee did not act in a timely fashion to bring this matter to the floor of Congress.

The only time a privileged motion was agreed to on this floor, interestingly enough, was a matter dealing with the District of Columbia government, where my colleagues had the power to override a contest between an elephant and a flea.

Whenever we have such awesome power, whenever you feel such incredible strength, you must use that strength with integrity, with humanity, and with a sense of fairness.

Mr. Speaker, the gentleman from Virginia, and no other Member of this body, could dare challenge the integrity and the fairness of this gentleman from California in conducting the business of the District of Columbia Committee. This gentleman has leaned over backwards to preserve the credibility and the integrity of the District of Columbia. We have held open hearings on all matters. We have never held a secret meeting, Mr. Speaker. We have never attempted to engage in dilatory tactics, Mr. Speaker. We have never failed to include the minority members and their staffs in any consideration.

I have served in the House of Representatives for almost 17 years. Most of that time the ranking minority member was the distinguished gentleman from Connecticut, who is now deceased, who served with me magnificently, Mr. Speaker, always in a bipartisan fashion, always in the spirit of cooperation, always in the spirit of openness, fairness, and with the highest degree of integrity.

So what we are confronted with here is a desire on the part of my distinguished colleague to discharge this committee of its responsibility. This is no procedural motion. This is no frivolous act. "Well, let's just do this and get on with the business."

This challenges this gentleman's credibility, and I fight over that. That challenges this gentleman's ability to handle this committee and the fairness of this committee.

We in unison on this side of the aisle challenge that assertion and I challenge any Member on the other side of the aisle to suggest that in any way we have ever operated without openness and fairness and democratic principles

and the highest degree of integrity as we move forward in the legislative process. So this privileged motion is not procedural. This is a substantive matter and any time the House of Representatives is engaged in the business of considering whether or not it should discharge a committee of its responsibility you should look gravely and seriously at that matter.

This gentleman would consider it an affront, Mr. Speaker, to discharge this committee when we have acted openly and in fairness.

I can assure you, Mr. Speaker, and all the Members of this body, that this committee has acted in a manner consistent with its rules and the utmost fairness on both sides of the aisle.

My distinguished ranking minority member, the gentleman from Virginia [Mr. PARRIS] and the minority members of the committee by this discharge motion, I would submit, seek to circumvent and trivialize longstanding processes for member communication and open debate. Such subterfuge is void of fair play and should not be validated by this distinguished and august body.

Let me now go to the procedural development of House Joint Resolution 341. On July 14, the District of Columbia City Council passed D.C. Act 7-56, the Prison Overcrowding Emergency Powers Act, and on July 21 the Mayor transmitted it to the Speaker of the House of Representatives. On July 22, the gentleman from Virginia [Mr. PARRIS] introduced the resolution that we have alluded to.

Pursuant to applicable law, Mr. Speaker, any D.C. act relating to title 24 of the D.C. Code has a 60-day legislative review or layover in the Congress before it becomes law. During this time any Representative may introduce a resolution of disapproval of that act, which is referred to the Committee on the District of Columbia. Should that resolution be reported to the floor, Members either approve or reject it by a majority vote. Both Houses must approve and the President must sign the resolution in order to veto the local legislation.

□ 1045

The 60-day legislative review period, Mr. Speaker, I would remind my colleagues, expires on November 13 of this year. In the Committee on the District of Columbia my practice is to ensure full, fair, and timely debate and expeditious consideration of disapproval resolutions. Hence, Mr. Speaker, immediately after the August recess the Subcommittee on Judiciary and Education, chaired by the distinguished gentleman from California [Mr. DYMALLY], on September 10 held a hearing on House Joint Resolution 341. Witnesses testified both in favor and in opposition to the resolution and both the majority and the minority participated in the hearing. There were honest questions and arguments on both sides of this particular issue, I would assert.

Subcommittee markup was scheduled for October 7, full committee markup October 8. Timely notices were forwarded to all Members.

After subcommittee markup a quorum was not present and thus it was indeed rescheduled. Again no quorum was present.

I would for a moment digress from my prepared remarks, Mr. Speaker, and state that on October 7, this gentleman in comity with my distinguished colleague from Virginia [Mr. PARRIS] called the gentleman on the phone in his office and stated to him that there had been no quorum present at the earlier meeting, and that I understood from the gentleman from California [Mr. DYMALLY] that it was rescheduled for that afternoon in order to accommodate the minority and particularly the distinguished gentleman from Virginia [Mr. PARRIS] and he said he appreciated the efforts of my colleague but unfortunately he was not a member of that particular subcommittee, and while they attempted to elicit his participation, he was not an official member.

Yet on October 8, in a full committee meeting, I produced a memorandum dated May 16 of this year, an official memorandum, stating the membership of all subcommittees. An interesting point, Mr. Speaker, on the subcommittee of jurisdiction, the distinguished gentleman from Virginia [Mr. PARRIS] was indeed listed as a member of that subcommittee. The chief staff person for the minority stated in open session, and I asked the young gentleman, "Is this an official memorandum laying out the membership of the committee?"

The young man stated for the record, "Yes, sir, that is the official communication."

The gentleman from Virginia [Mr. PARRIS] may have not recalled that he was a member of the subcommittee but the only official communication that we had was that indeed the gentleman was a member of that subcommittee.

Pursuant to applicable laws, the gentleman from California [Mr. DYMALLY] the subcommittee chairman, and I, agreed that since we could not resolve this matter at the subcommittee level that we would move it up to the full committee level and hold a hearing on October 8 for the purposes of marking up the bill as had been scheduled in a timely fashion.

Again, Mr. Speaker, and with some degree of pain and chagrin, I would point out that no minority member was present.

I might add parenthetically that in the 17 years that this gentleman has served as a member of the Committee on the District of Columbia, and I know that I am almost 52 and as you move forward your memory starts to fade somewhat, but I cannot recall, Mr. Speaker, a time when all of the minority members did not come to the committee.

I have always known with assurance and a sense of guarantee that the gentleman from Connecticut, Mr. McKinney, would always be present whether we agreed or disagreed. We would fight our battles openly and we would fight them in the spirit of fairness and profound respect.

As noted above, Mr. Speaker, the committee by a vote of 8 to 0 rejected the disapproval resolution.

The gentleman from Virginia [Mr. PARRIS] in his opening remarks, stated by quoting from the history of the Home Rule Act, stated that the Congress of the United States with respect to the District of Columbia can legislate any time on any subject.

I choose to challenge that assertion. That is not the legislative history this gentleman recalls, because if the Congress of the United States, this august and magnificent body, can legislate on the District of Columbia at any time and on any subject, why did we have the Home Rule Act? Was that some frivolous action we engaged in or was it a substantive serious effort to embrace the principle that several hundred thousand human beings, Americans who happen to reside in the District of Columbia, shall have the right to fully participate in the body politic and engage in electing people who can serve them at the local level.

So we believe that the Home Rule Act was serious. Therefore, we felt that we must circumscribe efforts to disapprove the action of the District of Columbia, and whether you agree or disagree, Mr. Speaker, we came up with three criteria that has allowed us to move through this incredible morass of resolution of disapproval with some degree of intellectual honesty and a commitment to the principles of democracy.

We came up with three criteria. First, did the city council exceed its legislative authority? In this situation clearly the District of Columbia did not exceed its legislative authority.

Second, is the city council's action, was that action constitutional? Mr. Speaker, we could have a room full of attorneys with one group arguing for, and one group arguing against constitutionality. I am not a lawyer. We have to deal with these matters on the basis of a reasonable person's conclusion with respect to whether a matter is constitutional. We live in a world of judgments.

We came to the judgment that in this instance this was not an unconstitutional act.

We then come to the third criteria, Mr. Speaker. Did the council's act violate the Federal interest?

I took notes during the remarks of the gentleman from Virginia [Mr. PARRIS] during his opening statement. He said that this is a matter of public safety.

Therefore, it fits the third criteria that we have established with respect to the review of this disapproval resolution. I would assert here aggressively, Mr. Speaker, that the gentleman from Virginia [Mr. PARRIS] in asserting that public safety is part of the Federal interest is endeavoring to expand the scope of the Federal Government to include police power.

I would remind the gentleman from Virginia [Mr. PARRIS] and this body, Mr. Speaker, that the Federal Government does not have police power, and thank goodness. Thank goodness we do not live in a land where we have a Federal police force.

The police function is a State and local function. The Federal Bureau of Investigation is not the Federal bureau of police. It is the Federal Bureau of Investigation. The police function is not a Federal function.

Mr. Speaker, I submit the gentleman from Virginia [Mr. PARRIS] is seeking to expand the notion of what is indeed the Federal interest with enormous implications, to this humble gentleman who is not even an attorney.

We believe that the Federal interest does not exist, that there is no Federal interest with respect to this particular item.

With respect to the issue of the Overcrowding Emergency Act, let me just make a few quick comments.

The District of Columbia Act 7-56 was passed in response to a major prison overcrowding dilemma largely because, not unlike numerous States, the District of Columbia is between a legal rock and a hard place. Between 1979 and 1986 the District of Columbia's total prison population increased by 100 percent, or 650 people annually. During the first 7 months of this year its prison population increased at a rate of 198 inmates per month. This increase is largely attributed to increased drug related offenses, and 85 percent of the D.C. criminal offenses fall under this category.

In response, since 1979 the District has expanded the department of correction's total capacity by 2,600 beds, a 100-percent increase. But that has not been enough.

The District of Columbia recently decided to construct a new 700-person prison with a special drug treatment component in the District of Columbia.

Mr. Speaker, this is an interesting point. The Senate, the other body, delayed construction pending its review of alternative sites—don't put it in my area.

Given these variables, while the District must arrest and house inmates on the front end, enforcing law and order, it is handicapped as to how it can continue on the back end to house these inmates within judicially imposed population limits.

How can that be done? The solution is merely to do what 16 other States have already done in a declared state of emergency, allow certain offenders to be released early.

The District of Columbia's increasing prison population pattern is consistent with the national trend. If the gentleman from Virginia [Mr. PARRIS] were here to raise the national issue, including this for the State of Virginia, then I would understand that, and I would join the gentleman. This is a major crisis in America. As of June this year there are 522,860 people in State prisons and 44,200 in Federal prisons. Few States are operating undercapacity, Mr. Speaker. Not unlike the District, most States are pursuing alternatives to incarceration. D.C. Act 7-56 is one partial alternative.

In 1980 not one State had an Emergency Powers Act. By 1985 at least 17 States had enacted such legislation as a necessary means for coping with the devastating crisis of prison overcrowding and public safety, Arizona, Arkansas, Connecticut, Florida, Georgia, Idaho, Iowa, Michigan, Montana, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and the State of Washington.

Indeed, Mr. Speaker, the problem is one of great complexity and there are no simple and easy solutions, and this effort to discharge the committee and engage in a disapproval resolution does not even speak to the issue at all. In fact, not unlike the District of Columbia, most States are experiencing prison overcrowding problems and are under court order, including the great State and Commonwealth of Virginia. This includes Alabama, Arkansas, Connecticut, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, and the list goes on and on. Courts have found State prison systems to be overcrowded. Hence, the situation in the District appears at first glance to be similar.

However, I say to my colleagues, it is not. It is much worse, and I would add, it is even less manageable.

In addition to court ordered caps on inmate numbers at its major correctional facilities, the U.S. attorney's office, which prosecutes major cases in the District of Columbia, and determines where D.C. inmates shall be confined. The Senate has limited further expansion at Lorton, the facility in the area of the gentleman from Virginia [Mr. PARRIS], a facility that is at critical mass and something has to happen to diffuse this situation before an explosion occurs, not only in Virginia, not only in the District of Columbia, but throughout this entire United States. The Federal Bureau of Prisons itself is overcrowded and will no longer relieve overcrowding by housing of D.C. inmates in Federal prisons.

As a result, the District of Columbia's management of their facilities is influenced by numerous external factors over which the D.C. government has no control. I remind my colleagues that there are no quick fixes here, not for the District of Columbia, nor any of the States with prison overcrowding.

Mr. Speaker, let me close by saying that at the appropriate point, because I chose not to challenge the gentleman's right to debate this matter because I am always interested in open and honest debate, but if I cannot win my fight in the debate then I lose my fight in the open. But at the appropriate time, at the end of this debate, this gentleman will offer a motion to table. I will offer a motion to table and ask all of my colleagues on both sides of the aisle with any sense of fairness, any sense of respect for efforts on the part of Members of this body to operate within the rules and within the framework of honesty and integrity, to vote down this privileged motion. Do not let history record that here was one of a few times when a committee that was not in agreement with a motion to discharge suddenly found itself being discharged of its responsibility when the record is replete with its efforts to accomplish that given task.

With that statement, and my compelling desire on the part of this body to acquiesce in assisting us in a motion to table at the appropriate point, I reserve the balance of my time.

□ 1100

The SPEAKER pro tempore (Mr. GONZALEZ). The Chair will inquire, does the gentleman from Virginia [Mr. PARRIS] wish to be recognized on his remaining 18 minutes?

Mr. PARRIS. Mr. Speaker, I do. I yield myself such time as I may consume.

Mr. Speaker, let me just respond to the gentleman from California [Mr. DELLUMS] by saying that the motion to discharge is simply required by the parliamentary constraints under which we find ourselves. I would say to the gentleman that I agree with him, this legislative body operates on the principle of majority rule in a fair and open way, and that is the purpose of this resolution, to permit the majority of this House to act on the matter, not just the 15 members of the Committee on the District of Columbia.

Mr. Speaker, I yield 7 minutes to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I rise in strong support of the motion to dis-

charge the Committee on the District of Columbia from further consideration of House Joint Resolution 341—a resolution to disapprove D.C. Act 7-56, the Prison Overcrowding Emergency Powers Act of 1987, which grants the Mayor of the District the authority to grant early release to inmates in the D.C. corrections system in order to alleviate overcrowding.

What we are dealing with today is not—I repeat—not a question of Home Rule; it is a question of public safety. We will hear assertions that what the gentleman from Virginia [Mr. PARRIS] is trying to do is an infringement on the Home Rule charter. That simply is not the case. I have been, and will continue to be, a strong supporter of Home Rule. More importantly, however, I am a strong supporter of the Constitution of the United States which in article I, section 8 confers on the Congress exclusive legislative jurisdiction over the Capital District. That authority and responsibility was recognized and reaffirmed in the Home Rule Act itself. To quote section 601 of the Home Rule Act:

Notwithstanding any other provision of this Act, the Congress of the United States reserves the right, at any time, to exercise its constitutional authority as legislature for the District, by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the Council by this Act, including legislation to amend or repeal any law in force in the District prior to or after enactment of this Act and any act passed by the Council.

Clearly, this Congress retains the authority and the responsibility to review any and all acts of the District Council.

Do we have a responsibility to act? Yes, we do. D.C. Act 7-56 represents a threat to the health and safety of the residents of Washington and neighboring communities as well as to the citizens who work in or visit the Washington area. Members of the District Committee were assured by D.C. Administrator Thomas Downs and members of the council that the act did not represent a threat to public safety. We were told by D.C. Administrator Thomas Downs—and I quote: "We are not going to release any dangerous criminals * * *." That simply has not been the case to date. Under the temporary emergency legislation, nearly 900 criminals were released from the D.C. prison system.

Our colleague from Virginia, Mr. PARRIS, took a random sample of over 100 of the 900 inmates released and produced some startling results. Using the D.C. Code definition of what constitutes a dangerous criminal, 80 percent were classified as dangerous criminals. Mr. Speaker, that includes those convicted of assault, assault with intent to kill, felony weapons convictions, robbery, armed robbery, sexual offenses, and the like: fourteen percent were rearrested within 1 month; 92 percent of those released had in excess of two prior convictions, the average number was 6 and some had as many as 15 priors. I'd like to take a couple of brief moments to describe the history of some of the "minor offenders" released to date.

Let's take Arthur Jefferson. Mr. Jefferson was serving time on a weapons possession charge when he was released on July 20. Mr. Jefferson's prior convictions included assault with intent to kill, aggravated assault, escape, and felony bail violation. Mr. Jefferson was rearrested at noon the same day he was released on felony charges.

How about this one? William C. Hancock, Jr., was released on July 24. He was serving time for sale of cocaine. On August 23, Mr. Hancock was rearrested on charges of cocaine distribution. His priors included two felony drug sales, assault on a police officer, assault, and contempt.

Then there is Anthony Green. He was released on August 15 while serving time for PCP distribution. Ten days later, rearrested on two counts of felony drug distribution. He also had a felony drug sale prior.

And then there is William Rorie. Convicted of carnal knowledge with a child. He was released on August 21. Mr. Rorie attempted to rape an 11-year-old step-granddaughter. He was indicted on indecent acts on a minor charge which incidentally is a 10-year felony. After the case was papered down to carnal knowledge, all but 10 days of Mr. Rorie's 1-year sentence was suspended.

Contrary to assertions that only minor nonviolent offenders are being released, the majority of those released are in fact precisely the type individuals who should be kept behind bars. This release program represents a serious threat to public safety and it is our responsibility as Members of Congress to exercise our constitutional authority over the District.

Mr. Speaker, the answer to prison overcrowding is not to put criminals back on the street where they threaten the lives and properties of this area's law-abiding citizens. Criminals belong behind bars not on the streets. A vote against this resolution is not a vote for Home Rule, it is a vote to put drug dealers, rapists, and armed robbers back on the streets. I urge my colleagues to support the motion to discharge, to support the motion to proceed, and to vote yes on passage of House Joint Resolution 341.

Mr. FRENZEL. Mr. Speaker, I usually vote against House attempts to curb Home Rule decisions of the District of Columbia government. My inclination is to do so again today, even though the District seems to be testing the Congress with increasingly imprudent and dangerous policies.

The District government's last insult to the people of the District was the weird law which has made it very difficult and very expensive to buy insurance in the District of Columbia. Today's issue poses a clearer, and more urgent, danger.

Today we are to discuss and debate the D.C. government's policy of releasing dangerous criminals long before their prison sentences have been completed. This even more weird policy threatens the law-abiding citizens of neighboring jurisdictions as well as those of the District of Columbia. The question deserves debate, and I shall, therefore, vote against the motion to table the Parris resolution.

Finally, it ought to be said that the unending parade of silly policies adopted by the D.C. government is the very best way I know to kill Home Rule. Personally, I am weary of voting to sustain the Home Rule principle when the District's government adopts policies which inflict harm on other citizens as well as its own.

Mr. PARRIS. Mr. Speaker, I yield 5½ minutes to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, let me first join my colleague, the gentleman from Virginia, in expressing my appreciation for the gentleman from California. I enjoy working with him on the District Committee. I do not question, I have not questioned, and I will not ever question the gentleman's fairness in the treatment of the minority on that committee or in his concern for the movement of the business of the committee. It happens to be a matter of course that this resolution (H.J. Res. 341) is important to us, and I am sure that the gentleman respects that as I do him.

I always find it difficult to follow the gentleman in debate because of his eloquent remarks, but I will attempt to plod through this to my best ability.

Mr. Speaker, what I want to do is to try to put this in as concise language as I possibly can relative to my concerns about this matter. As has been indicated, some are concerned about the potential of House Joint Resolution 341 being a violation of the Home Rule Act. In order to save the time of the House and of those Members on the floor, I will not again read the Home Rule Act as it sets forth language regarding the actions of Congress toward the District of Columbia. The gentleman from Virginia [Mr. BLILEY] eloquently did that earlier. But in fact the Home Rule Act states that there is nothing the Congress, in its oversight role, cannot do at any time prior to or after the District of Columbia passes legislation.

There are a large number of instances in which the District of Columbia Code has been violated in its application under D.C. Act 7-56. The D.C. Code clearly states the definition of a violent criminal. Yet, the District of Columbia, in its application of the

Emergency Powers Act, has repeatedly ignored this definition.

In the subcommittee hearing on this bill, Thomas Downs the city administrator, said this:

We have not released any

We have not released any inmates who were convicted of homicide, rape, assault with a dangerous weapon or other serious violent crimes * * *.

This is absolutely incorrect. Dozens of violent criminals have been released onto the city streets by the Emergency Powers Act.

In fact, in a "Dear Colleague" on October 13 from Mr. DYMALLY, Mr. DELLUMS, and Mr. FAUNTROY, the ending sentence said this:

We would add, the local government has given serious scrutiny to the administration of this law and has insured its proper implementation in the future.

Yet, there is no indication that the city has given serious scrutiny to the administration of this law or done anything, whatsoever, to ensure its proper implementation.

D.C. Act 7-56 section 3, paragraph (f) states the following:

The Mayor shall not reduce the sentence of any prisoner who is * * * (1) serving a sentence of life imprisonment; * * * (2) serving a sentence for committing a violent felony; or (3) serving a mandatory minimum sentence * * *.

A violent felony, by the definition of the D.C. Code, section 22-3201(f), is murder, manslaughter, rape, mayhem, maliciously disfiguring another, abduction, kidnaping, burglary, robbery, housebreaking, larceny, any assault with intent to kill, commit rape, or robbery, assault with a dangerous weapon, or assault with the intent to commit any offense punishable by imprisonment in the penitentiary.

The fact is, given that background, Mr. Speaker, that violent criminals and criminals serving mandatory minimum sentences have been released under the Emergency Powers Act. As was indicated earlier by the gentleman from Virginia [Mr. PARRIS] in his study of 112 of 900 criminals released, 80 percent of those released were classified as dangerous criminals, 32 percent were serving mandatory minimum sentences which were illegally reduced, 14 percent of those released under the program were rearrested within a month, and 92 percent of those released had at least two prior convictions. They averaged six prior convictions.

Here are some of the specific cases. These are cases which were not mentioned by Mr. BLILEY and I will not mention names. I have them for the gentlemen of the majority if they would be interested.

According to his records, this gentleman was released August 17 of this year. He was arrested previously for robbery, assault, twice for larceny, and four times for burglary.

This gentleman was released July 20 and was rearrested the same day. His priors are: Assault with intent to kill, two; aggravated assault, three; felony weapons, three; escape and a felony bail bond violation.

This gentleman was released August 21. Priors: Armed robbery two instances, assault on a police officer, simple assault, felony weapons, felony drug distribution, and breaking and entering in two instances.

This gentleman was released August 17 and rearrested August 20. He had priors of armed robbery, three; drug sales, two; and two instances of contempt.

This individual was released July 11, and he had priors of felony drug sales in four instances, misdemeanor drugs, two; robbery, two; simple assault in two instances, assault with intent to rape, an assault on a police officer in three instances.

This gentleman was released August 14 and rearrested the same day on a felony charge. He had priors of weapons violations, felony threat, drug possession in two instances, forgery, and shoplifting in seven instances.

These men were in prison for committing a violent crime or were serving a mandatory minimum sentence and they should not have been eligible for release under D.C. Act 7-56. But they were, and continued releases of violent criminals puts the safety of all who live and work in the DC area in jeopardy.

Mr. Speaker, my time has expired. Let me just quickly sum up by saying that, yes, there have been actions taken in other States on early release. In Texas, we have had an early release system since 1983. However, the situation in Texas is far different than that in the District. In Texas, we are working on passing bonding authority for $275 million for new prisons. We have just completed 11 new prisons, 10 minimum security, and 1 maximum security, and we have plans for additional prisons in the works.

There are alternate solutions to the problem of prison overcrowding besides just releasing prisoners early.

Mr. Speaker, I would urge strongly a "no" vote on the motion to table.

Mr. DELLUMS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I rise in opposition to the motion to discharge.

Mr. Speaker, I think there are three major issues before this body. The first is the procedural integrity of the Committee on the District of Columbia in its consideration of House Joint Resolution 341. As chairman of the Subcommittee on Judiciary and Education, it is this gentleman's opinion that the committee and Chairman DELLUM'S record of ensuring full and fair debate and expeditious consideration of all disapproval resolutions is exemplary. Few committee chairmen actually go the extra mile to protect the rights of both the majority and the minority—even when there are fundamental differences on the substance. I commend the chairman accordingly.

Further, I agree wholeheartedly with the chairman as to the reasons why the privileged motion was instituted. This motion was designed to protect the Congress from arbitrary, capricious, and dilatory decisions of committee and subcommittee chairmen. Hence, if we discharged the Committee on the District of Columbia, for performing its functions consistent with its rules and longstanding policies of full and open debate, I ask what message do we send to its chairman and the members of the committee.

Moreover, I believe we set a very dangerous precedent here and respective and prospective committee chairmen should so note.

The second point is that the gentleman from Virginia's approach does not solve or alleviate the underlying issue of prison overcrowding in the District of Columbia.

The gentleman from California described in very clear terms the dilemma which the District of Columbia is experiencing. It is a real and a very troubling dilemma—and one common to each Member's home State. Moreover, we cannot wish it away, nor can we ignore court mandated population caps—at the risk of possible prison riots and unrest. Given this, it seems that D.C. Act 7-56 is consistent with the gentleman from Virginia's interest in having a much safer and less volatile corrections facility at Lorton—since it is in his district. Nevertheless, his proposal, House Joint Resolution 341 fails to address in any way the District's overcrowding problem.

Finally, Mr. Speaker, I think we should underscore the interest of this Congress in passing the Home Rule Act and giving the District authority to govern itself. I refer my colleagues attention to the remarks of President Nixon on December 24, 1973, when he signed the bill into law. He stated:

One of the major goals of this administration is to place responsibility for local functions under local control and to provide local governments with the authority and resources to serve their committee effectively. The measure I sign today represents a significant step in achieving this goal in the city of Washington. It will give the people of the District of Columbia the right to elect their own city officials and to govern themselves in local affairs. As the Nation approaches the 200th anniversary of its founding, it is particularly appropriate to assure those persons who live in our Capital city rights and privileges which have long been enjoyed by most of their countrymen.

President Nixon's statements reflect the intent of the authors of the Home Rule Act in giving District of Columbia citizens equal self-government rights. Mr. Speaker, these rights are not to be taken lightly, and should not be trampled upon like the driven snow. District of Columbia Act 7-56, similar to laws in 16 States, is a reasonable action on the District's part to alleviate its prison overcrowding problem and should be treated accordingly.

Thus, I urge Members to support Chairman DELLUM'S motion to table and urge my colleagues to do the same.

PARLIAMENTARY INQUIRY

Mr. DELLUMS. Mr. Speaker, may I inquire of the distinguished gentleman from Virginia as to how many speakers he has remaining? I do so simply to state that we have approximately 4 minutes remaining, and it would be my intent to yield that time to the gentleman from the District of Columbia [Mr. FAUNTROY] to close debate on this side of the aisle.

Mr. PARRIS. Mr. Speaker, I would state for the benefit of the gentleman from California [Mr. DELLUMS] that we have one additional speaker, and it is my understanding—and I would appreciate it if the Chair would correct me if I am in error—that as the author or sponsor of this resolution I would have the opportunity under the rules to close the debate.

The SPEAKER pro tempore. The gentleman is correct. As the proponent of the resolution, offering the motion to discharge, he is entitled to close the debate.

Mr. PARRIS. Mr. Speaker, I thank the Chair, and I would respond to the gentleman by saying that we have just one additional speaker.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman, and with that in mind I yield the balance of my time to the distinguished gentleman from the District of Columbia [Mr. FAUNTROY] to close debate.

The SPEAKER pro tempore. The gentleman from the District of Columbia [Mr. FAUNTROY] is recognized for 4 minutes.

□ 1115

Mr. FAUNTROY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the motion to discharge. Mr. Speaker, the residents of the District of Columbia whom I represent without a vote on this floor are the toughest citizens on crime to be found in any State of this Union. Take a look at our record over the last 7 years of our limited home rule government, a record that clearly establishes us as the most public safety conscious citizens in our country. We're tough on crime.

During the past 5 years, our adult felony convictions have increased by 136 percent.

During past 7 years the number of inmates in our total correctional population has increased by more than 100 percent.

During the first 7 months of this year, the District's prison population increased at a rate of about 200 per month.

And, Mr. Speaker, ours is not a revolving-door situation either. When persons are arrested, tried, convicted, and jailed in our state—I mean the District of Columbia—they are now jailed for a longer period of time. The average minimum sentence for a felony offense has increased by more than a year since 1981, and the average stay in a District correctional facility has increased by about 6 months over that same period of time. The citizens of our Nation's Capital are tough on crime.

We are more vigorous when it comes to incarcerating wrongdoers than any State in the Union. For every 100,000 residents of the District there are 1,600 inmates, which is over seven times the national incarceration rate which is 216 per 100,000 residents. No State in the United States puts criminal defendants in jail at a higher rate than Washington, DC. Indeed, in the world community, only the Soviet Union and South Africa have higher incarceration rates. We in the state of Columbia are tough on crime.

But, Mr. Speaker, our resolve to provide for the public safety of our citizens has created for us a problem. It is a problem not unlike that experienced by States throughout this Union. Our prison system is overcrowded.

The resolution of disapproval which Mr. PARRIS would have you vote today would be the fourth wall of a box that would prevent us from ever solving the problem that our commitment to public safety has created for us.

The first wall has been erected by the courts. In five separate court orders or consent decrees, the courts have said "no more" to the prison population at:

The D.C. Jail (1,684 limit),

The maximum security facility at Lorton (536 maximum),

The central facility at Lorton (1,166 limit),

Youth Center No. 1 (406 limit), and

Occoquan 1,2, an (1,281 limit).

Again, this is not unique to the District of Columbia; 45 of the 50 States, Puerto Rico, and the Virgin Islands are under some form of court order or are parties in pending litigation involving prison overcrowding, Virginia among them.

With that wall erected, we pressed on to explore another option: the use of Federal prisons to relieve our overcrowding. Here again, we ran into a stone wall. A Federal judge on July 30 of this year ordered the Federal Bureau of Prisons to help ease the crisis in the District by taking more District prisoners. Five days later, that order was stayed by a three-judge appeals panel. It's understandable. The Federal Bureau of Prisons has reached its limit in housing District of Columbia inmates, with 2,300 currently housed in the Federal system. It is a system that is 56 percent overcrowded itself today and is expected to be 82 percent to 139 percent overcrowded by 1992. Thus, the Federal prison doors are effectively closed to the District as an option to relieve our overcrowding.

Undaunted, we've pressed on for yet another option. In this decade alone we've added 2,200 new beds to our prison system and were prepared to do more. But then the Senate steps in with a barrier to building more space. The fiscal year 1987 D.C. appropriation bill contained a prohibition on expansion of our facilities at Lorton, and the fiscal year 1988 bill calls for a delay in construction of a new 700-bed facility we intended to build on the grounds of D.C. General Hospital. It should also be noted that the severity of the District's overcrowding problem is such that even if the new prison opened today, it would do little to overcome the problem.

So now with three options closed to us, we decided there is one more option we can pursue. It is the one which 17 of the 45 States facing court orders and litigation have pursued: a carefully crafted early release program. And the minute that the public officials of who their positions by the consent of the governed passed enabling legislation, what happens? STAN PARRIS proposes to the House of Representatives that we box them in; that we erect a barrier that in effect gives the District no way out, no way to solve the problem. For if we follow the line of reasoning suggested by Mr. PARRIS' motion, we will join the Senate in intervening and interfering with the District's overcrowding situation in a way that erects yet another insurmountable wall. And when that wall is linked with the other three restraints, it becomes impossible for the District to manage its prison population. We would exascerbate the problem, and compounding a problem is no solution.

That, I would suggest, is an intolerable and unacceptable position to urge upon this House. We should seek to be a part of the solution, rather than a part of the problem. Mr. PARRIS' motion should be defeated. Mr. Speaker, I appeal to you: Don't box us in; reject this foolishness today and then next month vote again not to be a part of the problem with PARRIS but a part of the solution with Statehood for the citizens of the toughest crime-fighting community in the country, the District of Columbia.

The SPEAKER pro tempore (Mr. GONZALEZ). The time of the gentleman from the District of Columbia has expired.

Mr. FAUNTROY. Mr. Speaker, I ask unanimous consent for 3 additional minutes.

The SPEAKER pro tempore. Under the precedent, the Chair will entertain requests for additional time, if the time is equally divided between both sides.

PARLIAMENTARY INQUIRY

Mr. PARRIS. Mr. Chairman, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. PARRIS. Mr. Speaker, I wonder if I could inquire, under the original resolution of this matter on the motion to discharge, there was an hour debate authorized, equally divided between the majority and the minority, 30 minutes apiece.

The majority has now used its 30 minutes. The minority has one additional speaker and we have 4½ minutes remaining.

My inquiry, Mr. Speaker, is simply this: Under the rules that apply to privileged resolution in this body, should the gentleman's motion to table not prevail, we would be authorized 10 hours of additional debate on this matter?

The SPEAKER pro tempore. The gentleman is correct.

Mr. PARRIS. What my question then is very simply this, Mr. Speaker:

If we are going to proceed with additional debate by unanimous-consent requests, that is one thing; but if we are going to then have a motion to table which perhaps may prevail, we are constrained from additional debate, because that is undebatable.

My question, Mr. Speaker, is simply this, and I would address my question to the gentleman form California [Mr. DELLUMS], knowing of the gentleman's dedication and sincere passion for unlimited debate in these matters, and I wonder if we agreed to the motion for unanimous-consent requests for additional debate on this matter, if the gentleman would consider not proceeding with his motion to table?

Mr. DELLUMS. Mr. Speaker, I appreciate the gentleman's respect for my desire for debate; but I am not so desirous of debate that I want to go into 10 hours.

I feel very strongly about the privileged motion, and I would say in response to the gentleman from Virginia, while I understand the desire on the part of the gentleman from the District of Columbia to proceed for 3 additional minutes, as far as I am concerned, let us end this debate on the procedural matter. If the gentleman prevails, then we would go into 10 hours of debate.

Mr. PARRIS. Do I take that as an objection to the unanimous-consent request?

Mr. DELLUMS. Mr. Speaker, I am not objecting. If the gentleman wants to go 3 minutes here and 3 minutes there, I certainly would not object.

I do not want to go into 10 hours of debate. That is why I was so impassioned in the time that I took earlier.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

Mr. PARRIS. Mr. Speaker, I reserve the right to object.

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. Mr. Speaker, reserving the right to object, I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. Mr. Speaker, I thank the gentleman for yielding to me.

Does the gentleman wish to deny the gentleman from the District of Columbia, who represents more constituents than any single Member in this House, and who rarely comes to this well to speak on behalf of his constituents, does the gentleman wish to deny me 2 minutes?

Mr. PARRIS. Mr. Speaker, reserving the right to object, that is not my purpose, I would say to the gentleman from the District of Columbia.

The majority had 30 minutes of debate time. The minority had 30 minutes of debate time.

The time of the majority has been utilized largely by the majority's determination.

My point is, if we are to face—and we operate under the rules in this House—a motion to table, then we must conclude our business within the time authorized, and all of the Members operate under the same rules, both sides.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for yielding to me.

I hate to see us deteriorate to this level of triviality.

The gentleman from California tried to make the best argument that the gentleman could make, because I feel strongly that the motion is an affront. Perhaps it is overzealous.

I would like to have very much given the distinguished gentleman from the District of Columbia some adequate time. The gentleman is impaired. The gentleman cannot even vote for the residents.

I would ask, on the basis of comity established between the gentleman from Virginia and myself, if we are talking about 3 additional minutes, let the gentleman from the District of Columbia take 3 additional minutes, and let the gentleman from Virginia have 3 additional minutes and proceed on this matter.

I do not think we ought to quibble over 3 minutes. I think that it puts the Members in a position here where it does not seem to matter, 3 additional minutes, one way or the other. This gentleman does not care, except to the extent that I understand the plight of the gentleman from the District of Columbia, and I apologize in my desire to make the best case that I could.

Mr. PARRIS. Mr. Speaker, further reserving the right to object, there is not a Member on this floor who feels more passionately about this subject than does the gentleman from Virginia.

I am the sponsor of the resolution, the author of it; and I am here fighting for it, and I am fighting under the rules the way we are supposed to.

Having said that, in the interests of comity and in the spirit of compromise and cooperation, I will not object to the gentleman's request for 3 additional minutes, but I would tend to object to any additional requests subject to that.

Mr. DELLUMS. Mr. Speaker, I can assure the gentleman that there will be no additional time.

Mr. PARRIS. With the understanding that we have an equivalent number of minutes as well, and reserving the balance of the time for our portion of debate.

The SPEAKER pro tempore. The request of the gentleman from the District of Columbia is acceptable on the basis that the 3 minutes will be yielded to the gentleman from the District of Columbia, provided the gentleman from Virginia is also accorded an additional 3 minutes?

Mr. PARRIS. Mr. Speaker, I withdraw my reservation of objection; and that is my understanding.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

The gentleman from the District of Columbia is recognized for 3 additional minutes.

Mr. FAUNTROY. Mr. Speaker, I made the point that the passage of this resolution would put us in a box that would make it impossible for us to resolve this problem.

In the first instance, the courts have limited the number of people we can put in our prisons. That is a barrier.

Second, the Federal Bureau of Prisons has said that there is no more space that they can make available.

Third, the other body has said, you shall not build any more at Lorton, and now a delay on building facilities, and we are prepared to build.

This resolution would close the box and say to us quite frankly, in addition to those three barriers, you shall not have an early release program.

I appeal to the Members of this House, do not box us in and allow us not to have some way of solving this problem.

We are either part of the problem or part of the solution.

The gentleman from Virginia [Mr. PARRIS] would have us to be a part of the problem. The court orders no ability to go to the Federal prisons, no ability to build new facilities, and now no ability to have an early release program, and that is simply not right.

I urge the Members to reject this kind of solution. Do not be a part of

the problem with the gentleman from Virginia [Mr. PARRIS]. Be a part of the solution by allowing us to work this out as a government that sits with the consent of Congress, just as I stand here as the only Member in this House who stands with the consent of the governed on this question.

Please reject the resolution of the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. President, I yield 4 minutes to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. President, I thank the gentleman for yielding me this time.

As is often the case for the Members here in Congress, our decision in this instance requires the Members to balance the concerns of one group of citizens against another.

While I realize the situation at Lorton is serious and must be addressed, I believe that it is not our job to always represent the government of the District of Columbia, nor the criminals at Lorton.

Indeed we must look to the rights of the citizens of the District of Columbia. When we talk about early release of prisoners as an acceptable risk, let us remember who suffers the consequence of that risk.

It is the citizens of the District of Columbia.

We were assured at hearings that the criminals serving sentences for committing serious violent crimes would not be released. We were assured that only the least dangerous criminals would be released early. We were assured that drug dealers would not be back out on the streets before their sentences ended; and therefore, we need not worry about the young, the poor, the victims.

After looking at the records of some of the criminals who have been released early under this District's program, I am not reassured at all.

Let us not gloss over the seriousness of what is happening by pretending that the D.C. government through its early release program is merely putting a cute bunch of Oliver Twist Artful Dodgers back on the street. That is not the truth.

The District is returning to the streets violent criminals who have a long history of prior convictions and the potential to endanger the public.

Although I am from Illinois, part of the week I live in the District of Columbia. My daughters have been in the District of Columbia; but unlike many single mothers in the District of Columbia, I have some advantages. I have money which allows me to have a security system.

I have power which makes very sure that I can enjoy the highest level of public safety, but what do I tell the mother raising her young son about criminals such as this: A man convicted of two counts of burglary with a record of robbery, child molestation, burglary, released without even a minimum sentence?

Do I tell her that is perfectly OK, that we have to protect the Government and the criminals?

□ 1130

What about the 13-year-old girl trying to grow up in the project? What do you think she will think about the man released for drug sale felonies and rape? Do I tell her that it is perfectly OK and that we have to protect the government of the District of Columbia and the criminals at Lorton?

This is a simple matter. It is our job to protect the helpless. It is our job to protect the lawful. It is our job to protect the citizens trying to earn an honest living, trying to raise their children, trying to have a safe future. This is the bill.

If you vote to table, you are voting for the rights of the criminals to superseded the rights of the person trying to live a decent life in the District of Columbia, which is a majority of the population. You are telling the young single mother that she does not count. You are telling the young child that he cannot be safe. You are telling the young girl she may not walk upstairs at night. You are protecting the criminal.

Mr. DELLUMS. Mr. Speaker, I yield myself the final minute.

Mr. Speaker, with respect to prior offenses, people serve their time. Sentences are completed. Release is inevitable, anyway. The average release date is 19 days earlier than they would have been released in the first place, and with or without the act inmates are indeed released.

Now, let me go to the statement that the gentlewoman from Illinois made, and with all due respect, Mr. Speaker, I resent the hyperbole. If we are talking about the rights of the citizens of the District of Columbia, then they have a right when they believe that the local representatives at the city level are not acting in their best interest, they can go to court. They can recall those persons. They can impeach those persons.

Let us not sit as a colony on top of the residents of the District of Columbia. Let us not engage in paternalistic, patronizing rhetoric, with respect to the residents of the District of Columbia. They are full citizens, as any other citizens in any of the 50 States in the United States. If the local government is not acting in their interests, then they can get rid of them as they can get rid of us.

Mr. PARRIS. Mr. Speaker, I yield myself the remaining time.

Let me just say to my friend, the gentleman from California, the problem here in part is that this release program is not subject to judicial review. It is not under the jurisdiction of the parole board. It is not supervised by anybody except the administrative determination of the Mayor that they just ought to put these people out on the street. That is the problem with it.

My friend from the District of Columbia says they are committed to public safety. Let me give a brief summary of the overcrowding management program for the District of Columbia.

First is the Early Release Program.

Second, the parole misdemeanors before their early release dates.

Third, they put community placement of parole violators—that means put them out in the community for 15 days, rather than send them back to jail.

Community service for current weekend prisoners rather than go to jail; good times credit act. On top of early release, you can get more time for good time.

The Job Training for Convicts Program. There are five early release programs and one job training program. That is the sum total of penal management in the District of Columbia. That is part of our problem.

Mr. DELLUMS. Mr. Speaker, would the distinguished gentleman yield to me for one question?

Mr. PARRIS. I am sorry, Mr. Speaker, I think we have been more than generous with our time.

At the beginning of this program, the statement was made by appropriate D.C. officials, and the act provides, that only nonviolent criminals would be released. Now correction officials say that what they really meant was only the least violent inmates in the prison population would be released. Well, I do not think that is good enough, Mr. Speaker. I think what this Congress must do is address the issue of whether or not this city has had crime and criminal activity and penal management as a high enough priority consistent with our constitutional obligations and the express provisions of the Home Rule Act. That is the issue before my colleagues this morning.

The question of whether or not we should in fact enforce public safety in this city, this magnificent city, which we all cherish as the Nation's Capital, that is the issue. It is not just a question of the prerogatives of the City Council in the District of Columbia. This is a much bigger issue than that.

I would submit, Mr. Speaker, that this is a critical issue for this Nation's Capital. I would hope that my colleagues would vote no on the motion to table; subsequent to that, vote aye on the motion to discharge. We will then go forward on a motion to proceed and have adequate opportunity to debate this matter, look at its merits, to hear everybody's opinion

about it and to have the full membership of this House undertake to exercise its responsibility under the Constitution of the United States, a profound and awesome responsibility for all of us.

With that, Mr. Speaker, I yield back the balance of my time.

MOTION TO TABLE OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DELLUMS moves to lay on the table the motion to discharge.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DELLUMS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PARRIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 210, nays 200, not voting 23, as follows:

[Roll No. 353]

YEAS—210

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Chapman
Clay
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Garcia
Gaydos
Gejdenson
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Howard
Hoyer
Hutto
Jacobs
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Sabo
Savage
Sawyer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—200

Annunzio
Applegate
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boucher
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Carr
Chandler
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gibbons
Gilman
Gingrich
Goodling
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Jones (TN)
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Martinez
McCandless
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Moorhead
Morrison (WA)
Murphy
Myers
Neal
Nelson
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Russo
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—23

Biaggi
Courter
Davis (MI)
Donnelly
Duncan
Foley
Frost
Gephardt
Hughes
Kasich
Kemp
LaFalce
Leland
Livingston
McCollum
McHugh
Pepper
Porter
Roemer
Scheuer
St Germain
Tauzin
Wilson

□ 1145

Messrs. CLINGER, STENHOLM, VOLKMER, and ENGLISH changed their votes from "yeas" to "nay."

Messrs. BILBRAY, WILLIAMS, DARDEN, NICHOLS, GRANT, TORRICELLI, KLECZKA, CHAPMAN, DINGELL, FLIPPO, BEVILL, and HUTTO changed their votes from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GONZALEZ). Without objection, a motion to reconsider is laid on the table.

There was no objection.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore (Mr. GONZALEZ). Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. SWIFT. Mr. Speaker, I believed I was voting on the motion to discharge and voted "no." I learned subsequently that it was a motion to table the motion to discharge the committee and I would have voted "yes" had I understood that.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of the clerks, announced that the Senate has passed with an amendment in which the concurrence of the House in requested, a bill of the House of the following title:

H.R. 2741. An act to authorize the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic games.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 2782) "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities;

and research and program management; and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 328. An act to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

□ 1200

HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT OF 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 280 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 280

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 162) to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one and one-half hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section of said substitute shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. GONZALEZ). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi [Mr. LOTT], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 280 is a simple open rule providing for the consideration of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987. The rule provides 1½ hours of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

During the consideration of the bill for amendment, the rule provides that it shall be in order to consider the amendment in the nature of a substitute, recommended by the Committee on Education and Labor and now printed in the bill, as an original bill for the purpose of amendment under the 5-minute rule. The rule further provides that each section of the committee substitute shall be considered as read.

The rule also provides that at the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. Finally, Mr. Speaker, the rule provides that the previous question shall be considered as ordered on the bill and amendments thereto without intervening motion except one motion to recommit with or without instructions.

Mr. Speaker, the committee substitute for H.R. 162 establishes a system within the Department of Health and Human Services for the identification of American workers who are at increased or high risk of contracting occupational diseases and for the notification of any identified at risk worker populations. The bill also establishes a means by which those notified workers can be tested, evaluated and medically monitored. The Subcommittee on Health and Safety has worked diligently to craft a bill which has the support of a broad range of groups in business, health care, and labor. However, Mr. Speaker, while there is broad support for the bill as reported, the rule reported by the Committee on Rules will permit the consideration of any germane amendment or substitute to the bill in order that all sides may be heard when this legislation is considered under the 5-minute rule.

As such, Mr. Speaker, I urge my colleagues to support the rule so that the House may consider all sides of this very important issue.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 280 is an open rule providing for the consideration of H.R. 162, High Risk Occupational Disease Notification Prevention Act.

After 1½ hours of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the 5-minute rule with the committee amendment in the nature of a substitute made in order as an original bill for the purpose of amendment. Finally, the rule provides for one motion to recommit with or without instructions.

This bill requires the Federal Government to identify and notify workers who are exposed or have been exposed to hazardous substances on the job, and to monitor and counsel them appropriately.

Mr. Speaker, once the notified worker enters the program, the cost will be borne by the current employer, if any part of the exposure cited in the notification occurred while the employee was working for that same employer. Otherwise, the employer would be required to provide the monitoring but could pass those costs on to the employees.

It further prohibits discrimination against notified employees and sets forth procedures for job transfer, prohibiting benefit and wage reduction for up to 12 months if no other position is available.

I stated earlier that this is a simple open rule, and the members of the Rules Committee need to be congratulated for that. But it is a bad bill.

Now I must say, that this concept is well-intentioned, Mr. Speaker, and this issue is very important. But it is a complex piece of legislation. Considering the immense impact that this bill will have on some of the businesses, the consumers, the employers and employees in this country, shouldn't we explore the effect of this legislation more judiciously?

While the concept may be well intentioned, I think we really need a more judicial approach to the whole problem and that is why I do want to commend to my colleagues, during the discussion on the rule, the Jeffords-Henry substitute. I think it is a much better approach to this risk notification. Outstanding work has been done by the gentleman from Vermont and the gentleman from Michigan in developing the substitute. There will be an early vote during the process of amending this bill on the Jeffords-Henry substitute. I urge my colleagues to support it.

Mr. Speaker, we all strongly feel that workers should be assured of a safe and healthful workplace and believe that goals should be set to insure this protection. So no one disputes that the need to provide care for American workers is a fundamental concern. But no one has shown that this problem is not already being adequately addressed by the Occupational Safety and Health Administration.

Perhaps the most effective way to approach this problem is through congressional reenforcement of existing notification programs—not through some flawed methodology that creates a whole new agency and costs millions

of dollars and opens up a floodgate of unwarranted lawsuits. So, I ask, is enactment of this legislation necessary?

Mr. Speaker, this bill is too costly and unnecessary. The administration strongly opposes this bill, and many Members on both sides of the aisle are opposed to this highly controversial bill.

However, since this is an open rule, which would allow consideration of the Jeffords-Henry substitute, I will not urge that it be defeated.

Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. JEFFORDS] for his comments on the rule.

Mr. JEFFORDS. Mr. Speaker, I want to take just a few minutes. First I want to thank the Rules Committee for giving us this open rule. For if there is any bill that we have had in recent time which really should have an open rule, it is this one. This is a serious matter. It is an important piece of legislation.

On the other hand, there is a serious division of opinion as to just how to handle the serious problems which this bill deals with.

The bill that is before you, and the substitute, both try to take a different approach in order to take into consideration our concerns for former workers and present workers.

Let me just run very briefly through the basic differences.

First of all, as to prevention, to help those workers that are still employed, the bill before you does little or nothing. The substitute, on the other hand, takes the position that the most important thing we can do now is to make sure those systems which we have to protect our workers are improved, and thus give to the present workers the best chance of preventing any occupational disease.

A series of actions is required by the substitute. It expands coverage to more workers, it improves training, medical monitoring information to employees, and it establishes an Office of Hazardous Communications.

With respect to prior workers, the approach taken by the substitute is much different. Using our experience under a NIOSH project, which resulted in some $375 million in law suits for a small number of employees, if we generalize the results it results in possibly billions and trillions of dollars of law suits. H.R. 162 uses that approach. It creates a whole new bureaucracy, a whole new set of problems which will take years in order to be enacted.

On the other hand, the substitute tries to utilize a program, a reasonable one, which would help notify workers without creating all the problems H.R. 162 does. It will bring notice to workers sooner, will help them seek relief from the problems they may have from occupational disease on a much greater and faster schedule.

So I urge you to take a very careful look at the substitute.

□ 1215

Mr. Speaker, we have spent many hours and many days trying to work out a compromise which will best protect the workers of this country.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I rise, naturally, in support of the rule, but I would just like to make mention of the fact that we are one of the very few industrialized countries that does not even give the courtesy of a plant closing notice to workers in our communities. Everybody knows that my district lost 55,000 jobs since 1977, and the very first plant closing in September 1977 was heard about on the radio and television and read about in the newspapers.

But the further tragedy is that in addition to the fact that our workers do not even get the courtesy of a notice of the loss of their jobs and the moving of their company, many times they are not even given the disclosure facts of the tremendous disease and health risks they face in their places of employment. I think that is a sin. It is a tragedy, and this legislation that has been brought forward by the gentleman from Pennsylvania [Mr. GAYDOS] is long overdue.

I want to commend the gentleman from Pennsylvania [Mr. GAYDOS] for a piece of legislation that will help the American worker and the American workplace. I think very few people are as aware as he is of the problem, having come from a steel district and having seen the demise or our industrial sector.

This bill does several things. In addition to identifying workers who are at high risk, we also must notify them of that risk to prevent any possible disease. It places this responsibility in the hands of a risk assessment board, and it charges the Secretary of Health and Human Services with the responsibility of notifying those workers.

This bill has some teeth in it, and it is needed. Let us face it, when a company or an industry in our area has a problem, we are the first ones they call when they want help, but when they decide to leave or when their industry is causing a health risk to their workers, we never hear from them.

So, Mr. Speaker, I think it is time that we right a wrong, and that we pass a piece of legislation that is needed in this country. I ask the Members to vote for the rule and then vote for the bill.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. HENRY], but I would like to say before I yield to him that he really has done outstanding work on this legislation. I consider the gentleman from Michigan to be one of the most informed Members on this subject. He has been very instrumental in developing our substitute, and I think that is the proper answer on how to proceed on this risk notification issue. So I am happy to yield the time to the gentleman from Michigan.

Mr. HENRY. Mr. Speaker, let me say to my colleagues that it is somewhat of an amazement to all of us that such a small bill of 37 pages could contain so much controversy. The controversy begins, quite frankly, with the short title of the bill where it says: "This act may be cited as the 'High Risk Occupational Disease Notification and Prevention Act of 1987'." And it never goes on to define the issue of high risk and never distinguishes, quite frankly, the difference between high risk and risk.

Risk is a function of all our lives. Risk is involved in everything we do in our lives, as when we fly to Washington and return to our districts. No matter where we work, we are exposed to risk. The problem before us is not the issue as to whether or not we ought to seek to make our lives and, more particularly, our occupational environments more risk free. The problem is, quite frankly, how we best do so and how in fact most cost efficiently and most immediately we can protect workers in the workplace.

Thus the first issue before us, quite frankly, is a scientific question and a medical question as to which is the best approach to the problem: a retrospective, remedial attempt to identify risk to which workers were formerly exposed or, on the other hand, to immediately broaden and strengthen the activities of the Federal Goverment in protecting our work force from unwarranted risk in the first place.

The distinction, Mr. Speaker, is as simple as this: It is as if in our local high school, college, or university football teams we should allow the players to engage in a game without wearing helmets and then subsequently follow up with head x rays after every game to see as to whether or not the risk to which they have been exposed has in fact created any cranial injury, as opposed, in the case of prospective prevention and worker notification under the OSHA standard, requiring the use of appropriate safety standards and preventing and minimizing risk in the first place. In terms of the number of workers, this approach can assist. It is overwhelmingly superior to the committee bill. In terms of the cost effectiveness, it is overwhelmingly superior to the committee bill, both medically and scientifically.

Furthermore, this approach absolves us of many of the liability problems which the committee bill establishes for us. We should point out, Mr. Speaker, that in the 1984-85 year

alone, product liability and tort liability costs have increased by some 72 percent. This country faces a crisis in product liability, tort liability, and subrogated liabilty claims which simply cries out for relief.

Rather than relieving the problem, Mr. Speaker, the bill as reported by the committee exacerbates the problem. We have documented this extensively. We have pointed out that the insurance industry has overwhelmingly warned of the catastrophic liability consequences of this bill. The liability extends not only to private industry but to governmental sectors. That is why the Department of Justice has addressed us.

The Members will be told that in fact one of the larger underwriters of liability exposure, the firm of Crum & Forster has in fact endorsed the committee bill. The fact of the matter is that associations representing between 80 to 85 percent of the product liability and tort liability underwriting market have spoken out in opposition to the bill and warned against the consequences of its passage. Mr. Victor Schwartz, coauthor of the Nation's leading and most authoritative textbook on torts and tort liabilities, has warned this Congress against the dangers of this bill if it is not substantially amended to remedy its liability issues and problems.

Mr. Speaker, Members cannot go home and lay claim to supporting liability reform if they vote for the bill as reported out of the committee. I want to repeat that, Mr. Speaker. No one can dare go home to their districts and express concern for this bill if they have not addressed the liability issues at hand.

Mr. LOTT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. GONZALEZ). Pursuant to House Resolution 280 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the consideration of the bill, H.R. 162.

□ 1225

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 162) to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes, with Mr. TORRES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Pennsylvania [Mr. GAYDOS] will be recognized for 45 minutes and the gentleman from Vermont [Mr. JEFFORDS] will be recognized for 45 mintues.

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

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

Mr. Chairman, when we created OSHA some 17 years ago, we believed that we would substantially reduce the numbers of deaths and injuries arising from occupational accidents and diseases.

Unfortunately, it hasn't worked that way. Each year, 100,000 American workers die from occupationally related diseases. Another 400,000 become disabled.

PURPOSE OF BILL

In the 99th Congress, the Subcommittee on Health and Safety conducted six hearings on the High Risk Occupational Disease Notification and Prevention Act. An additional five hearings were held in this Congress. During these hearings, the Subcommittee made every effort to afford all interested parties an opportunity to testify and make their views known.

The result of these extensive deliberations in H.R. 162, the bill before us today, which addresses this problem in three distinct ways:

First, it identifies populations of workers who are at a high risk of contracting an occupational disease;

Second, it personally notifies these workers that they are at an increased risk of developing a work-related disease;

Third, it establishes a system of medical monitoring, counseling, and surveillance for workers who have been notified that they have been exposed to excessive levels of hazardous substances.

RISK ASSESSMENT BOARD

H.R. 162 establishes a Risk Assessment Board in the National Institute of Occupational Safety and Health in the Department of Health and Human Services. The Risk Assessment Board will be chaired by the Director of NIOSH and be composed of nine medical and scientific professionals in the field of occupational health.

Sepcifically, there will be two occupational physicians, two epidemiologists, an occupational health nurse, a biostatistician, a toxicologist, and an industrial hygienist. All would be selected from nominees submitted by the National Academy of Science.

The subcommittee went to great lengths to make absolutely certain that the Risk Assessment Board would be purely scientific and totally free of any political considerations.

ASSIGNMENT OF RESPONSIBILITY TO NIOSH

There is a clear rationale for assigning NIOSH the responsbility of administering the provisions of this act. NIOSH was created with passage of the Occupational Safety and Health Act of 1970 and placed under the jurisdiction of the Secretary of Health, Education, and Welfare, now known as the Department of Health and Human Services. It was given responsibility for developing criteria documents for the promulgation of OSHA standards. The medical and scientific expertise is already there.

It has already conducted or cooperated in three major notification programs. In Augusta, GA, 850 workers were notified of their risk of bladder cancer. In Port Allegheny, PA, another 850 workers were notified of their risk of lung cancer from exposure to asbestos. And, lastely, 12,000 current and former members of the Pattern Markers League of North America, who worked in the auto and farm equipment manufacturing industries, were part of a notification program in 27 States and three Canadian provinces.

Historically, then, NIOSH has been the leading health agency in occupational diseases. It is, therefore, the only logical place to vest the responsibility for carrying out the provisions of this act.

MEDICAL CENTERS

In order to establish a national network for the dissemination of the latest medical information and latest scientific methodology, the bill initially establishes 10 health centers, and requires additional centers to be added within 5 years until each of the States has at least 1 center. A toll-free number will be provided to facilitate communications.

These centers will also serve as research and training facilities to be selected from existing sites. NIOSH has 14 education resource centers and at least 5 would qualify. The National Institute for Environmental Health Science has 15 centers, and again, at least 5 would qualify. The National Cancer Institute has 20 comprehensive centers in operations, and most of them could be certified.

Other sites could be selected from numerous well-established and highly regarded medical schools and university schools of public health.

COST EFFECTIVENESS

H.R. 162 is a very cost effective measure. It authorizes $25 million a year for 5 years for its operation, which is less than the most recent version of the substitute that will be offered.

But the real cost savings will come from the reduction in occupational disability claims for Social Security,

SSI, Medicare, and Medicaid. A 1984 study by the Department of Labor put the cost of occupational disease at $5.4 billion.

That is just the cost to the Federal Government. The cost to private business is also substantial, ranging between $1.7 and $4.3 billion a year in medical costs for affected workers, insurance costs, and costs of replacing and training new workers.

It has been suggested that this bill, when enacted, will increase the number of compensation and liability claims. The subcommittee expended considerable time and effort to ensure that the bill would be liability neutral. It specifically prohibits either the use of the notice itself or the process used by the Risk Assessment Board as a basis for a claim or as evidence in a court of law.

A recent GAO study states:

> The bill does not change existing laws that permit workers to sue for damages or file claims for compensation. Even if the bill is not enacted, an increase in lawsuits and claims might occur because workers are generally becoming more aware of their rights to compensation for health problems caused by workplace exposures to hazardous substances.

The October issue of the American Bar Association Journal draws the same conclusion as the GAO report—that is, claims for occupational disease will occur whether H.R. 162 is enacted into law or not.

SUPPORT FOR THE BILL

During the consideration of the bill, amendments by the various businesses, trade associations, health organizations, and labor representatives were proposed, many of which were incorporated into the bill before us today.

As a result, H.R. 162 is supported by a broad-based coalition of business, health organizations, labor, and environmental groups. The coalition includes, the American Cancer Society, the American Lung Association, the American Medical Association, the American Association of Occupational Health Nurses, and many other health organizations.

The business community and trade associations who support the bill include the Chemical Manufacturers Association, the National Paint and Coatings Association, the American Electronics Association, and several individual companies, including IBM, Occidental Petroleum, General Electric, Ciba-Geigy, Eastman Kodak, Rohm and Haas, and Union Carbide. The AFL-CIO and its various affiliates strongly support the bill.

Environmental groups who support the bill include Public Citizen, the Sierra Club, and the Audubon Society, among others.

CONCLUSION

To recapitulate:

One hundred thousand American workers die, and 400,000 workers contract debilitating disease in the workplace each year, and the problem is not being effectively addressed.

Each year, the cost to the Federal Government in disability payments amounts to $5.4 billion.

The cost to private business in insurance, medical, and training costs ranges between $1.7 and $4.3 billion annually.

H.R. 162, the High Risk Notification and Prevention Act of 1987 will take a giant step toward solving this serious national occupational health problem. It will:

Establish a Risk Assessment Board in the National Institute of Occupational Safety and Health, which will identify, notify, and monitor those workers who are determined to be at high risk of developing an occupational disease.

Set up a series of national health centers for the purpose of training, research, and dissemination of the most up-to-date information concerning occupational diseases.

The bill specifically prohibits notification as a basis for any claim or to be used as evidence in any court of law. In effect, it is tort neutral.

H.R. 162 does not supplant any existing Federal program such as OSHA, but rather augments and complements such OSHA efforts as the recently adopted hazard communications standard.

Mr. Chairman, we have the technical, medical, and scientific skill to identify those workers who are truly at high risk of disease. We have the know-how for notifying those workers of their risks. We have the medical and scientific understanding to monitor workers.

Now all we need is the commitment to do something about it. H.R. 162 represents a means to bring all the pieces together. It provides a cost-effective program that, in the long run, can prevent the debilitating occupational diseases that cause the 100,000 deaths and 400,000 disabilities each year.

□ 1230

In closing, I want to say this. Yes, we can talk about figures; they are cold.

I think all of the Members in good conscience, and we have talked about 100,000 individuals that are going to die every year, and we are talking about their families and their loved ones and their sons and daughters, and those educations that are going to be interrupted, all those things all in one, that is what we are talking about.

If you are not part of this statistic, you will not be so sensitive to it; but we say this Congress and this Government of ours owe to these 100,000 death cases and the 400,000 disabilities, the crippled and the wheelchair cases, we owe to them under existing technology to take a new look at what we are doing, to add and supplement OSHA.

We are not asking to discard OSHA. Back in 1970 I was very intimately involved, as was the gentleman from California [Mr. HAWKINS], and many of the Members on the Committee on Education and Labor, and we feel this is a weakness in the bill, and we have to do it.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GAYDOS] has consumed 14 minutes.

The Chair recognizes the gentleman from Vermont [Mr. JEFFORDS].

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

Mr. Chairman, the gentleman from Pennsylvania [Mr. GAYDOS], the chairman of the subcommittee, has eloquently explained to the Members why we are here today; and that is, to do something about the problems of occupational disease.

Our differences are not as to whether we should do something but rather on how we do it. We have a long list of supporters for our amendment. The gentleman from Pennsylvania has a list who became supporters of the bill before our amendment was available.

We believe that our substitute that we will provide later on is a much superior way to approach the problems which have been delineated.

Think there is universal agreement on the goals of both our proposal and H.R. 162. First, we all want to prevent harmful occupational exposures for all current and future workers. And second, where we have information that could help former workers we want to provide it to them.

The Henry-Jeffords substitute not only fulfills these goals, but does so in a manner that is more effective than H.R. 162. H.R. 162 does not do a single thing to reduce or prevent occupational exposure. The substitute does. H.R. 162 will probably not result in a single notice in 2 years' time. The substitute will produce about 100,000 notices to a carefully selected group of workers. As early as only a few months, and in a way to reduce chances of unproductive litigation—counter productive injury to small business and workers.

During this period of general debate I will explain why I believe H.R. 162 falls short of these goals, and once the substitute is offered I will go into more detail on why I think the substitute does a better job to protect workers—past, present, and future.

We operate within limits. There is a lot we do not know about cancer and other diseases. The best estimate is that about 5 percent of all cancers are occupationally related, with the remainder resulting from lifestyle or environmental factors. More specifically, our understanding of occupational health is limited, as is our ability to di-

agnose and treat diseases. Federal resources are obviously tight. And with our ongoing efforts to make this Nation more competitive, there must be limits on what additional burdens we ask business to bear.

I do not hesitate to demand that business comply with a workable and rational occupational safety and health policy. But it will not benefit workers a bit if private and public resources are spent in a nonproductive fashion.

This would be the case if H.R. 162 were enacted. Contrary to the claims of its sponsors, this legislation will not do much to prevent disease. That's the problem with after-the-fact risk notification. The mechanism set up under the bill would issue a notification after an exposure has occurred, not before.

If an employee acts responsibly and gets medical monitoring, and if he follows his doctor's advice by quitting smoking and changing his diet, then in some instances the risk is lessened. But do we need this bill to tell us that?

In my opinion, we should focus our limited resources on prevention rather than risk notification.

Under the bill before the House, there is no question that there will be substantial overnotification. This in itself might not be so bad. But think for a moment. You are sitting at home reading through your mail and get an official-looking letter from the Federal Government. It tells you that your employer exposed you to something that may give you cancer. To be effective, to get you to see a doctor, that notice has to scare you. And if it scares you enough to go see a doctor, it may very well scare you enough to see a lawyer.

In fact, our only experience with this sort of Federal risk notification program tells us just that. One out of every five workers who was notified turned around and sued the employer. Of some 800 workers notified, roughly $335 million in claims were filed. Some were settled, some were dismissed, and every one of them cost money. The litigation continues today, some 7 years later, as the insurance companies argue over who should foot the bill. If you generalize this experience to the total population to be notified by H.R. 162—you would get—not millions, not billions, but trillions of dollars in law suits.

Let me repeat, the Augusta pilot project was the only project the Federal Government has ever conducted.

It was a disaster yet H.R. 162 uses it as its model. There have indeed been two other projects, among asbestos workers in Port Allegheny, PA, and patternmakers in the auto industry. These two private programs were jointly operated by labor, management, and other community groups. While their positive medical impact is unknown, their liability consequences have been less severe. This is partly due to the fact that the patternmakers program has to date failed to uncover any increased risk of cancer. In fact, right now it looks like a lifestyle factor—diet—may be the culprit.

But despite the fact that the non-Federal approach seems to have had a smaller impact in terms of liability, it is the Federal model that H.R. 162 has chosen to follow. The substitute does not do that.

The claim that this bill is tort-neutral or litigation-neutral is pure hogwash. It will generate lawsuits, and if the Augusta pilot is any guide, the vast majority of them will be unfounded. Even if all of them are unfounded, the transaction costs can be substantial. For a small- or medium-sized company which is not insured against the types of claims that will be generated by this bill, those costs could be insurmountable.

If you don't believe me, just open up the bill to page 34. There the bill tries to lessen the liability impact by essentially preempting what is admissible evidence under State workers' compensation or tort law. The bill also says that the bill should not begin the tolling of any statutes of limitation. And I understand Mr. GAYDOS will offer an amendment to shield doctors, but nobody else, from liability under the bill.

When it comes to liability, this bill, like one of its more glamorous proponents, is more than a little bit pregnant.

Even if a company escapes the liability consequences of the bill, other provisions will come into play. First, the employer must provide medical monitoring. In the case of the Augusta pilot project, this has amounted to some $5,000 per employee. Second, if the employee's doctor decides that the employee should be transferred, then the employer must transfer the employee to another job at the same pay and benefits, or if he can't—must pay for a year.

Imagine that you are a doctor and a worker has come to you with a piece of paper from the Federal Government saying he is at risk of disease. Chances are you are not a specialist in this area. What do you do? If you leave him in the job you run the risk of being hit with a malpractice suit. Moreover, a job with little or no exposure to a chemical will clearly be safer than one involving some exposure. To reduce the risk to your patient, you would always tend to transfer him.

But how many employers are going to able to find a job that involves little or no exposure? Well, the bill takes care of that. If no such job exists, the employer must provide the employer with a year's paid leave. And, although it's not clear, the employer may be obligated to reinstate the employee at the end of that period. What happens to the replacement employee at that point is also unclear, since a transfer cannot result in bumping anybody out of a job.

At this point I want to step back from the individual provisions of the legislation and take a look at the larger picture. I believe that this legislation is flawed. We may hear talk of all the compromises that have been made and will be made. But to give you an idea what these compromises are like, the National Federation of Independent Businesses opposes the small business exemption that may be offered to the medical removal provisions.

This bill will be vetoed if it ever reaches the President's desk. I think it was during subcommittee consideration that the Secretaries of Labor, HHS, and Justice wrote to tell us that this bill will be vetoed if it is sent to the President. They are now joined by Commerce, Agriculture, the Council on Economic Advisors, and the Small Business Administration.

It may give some of my colleagues comfort that this legislation will not become law. But if we do adopt this legislation, none of us should take comfort in thinking that we have done one darn thing for the safety and health of workers.

I'm glad to say there is a positive alternative that has a very real chance of becomng law. Congressman HENRY and I will offer a substitute which both focuses on prevention and establishes an interim risk notification pilot project. I think it does more for workers than H.R. 162. The business community can live with it and the administration says it will sign it.

So if you really want to do something for workers, I urge you to support the Henry-Jeffords substitute and oppose H.R. 162.

□ 1245

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

Mr. JEFFORDS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the Jeffords-Henry substitute.

Mr. Chairman, I thank my colleagues for giving me the opportunity to offer my observations on H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987. As a member of the House Judiciary Committee and as an attorney, I feel I can offer helpful insights about the liability implications of H.R. 162 on our system of justice.

Today's debate focuses on whether H.R. 162 will exacerbate the tort litigation explosion in America. I say it doubtedly will. Unfortunately, in the real world of tort and worker compensation systems, H.R. 162 would, as distinguished legal expert Victor Schwartz put it, "create new and unprecedented factual circumstances that will provide grounds for thousands of unfounded claims."

H.R. 162 requires that the government identify and notify current and former workers if they are determined by the Risk Assessment Board to be in a population at risk of disease. Significantly, these risk determinations would be based on extrapolations of a study of a group of workers at risk of disease. This means workers receiving notification may be those who were not studied, including those who worked in a workplace environment many years ago. With these extrapolations presenting reliability problems, many workers will be falsely identified as at risk of developing cancer or some other disease. Is there any doubt that such notification would be emotionally traumatic? If you were a worker receiving notification under H.R. 162, would you just sit by and pray that you would not be struck by the disease? Or would you be angry or distressed?

I think most workers would be angry and file claims. Aggressive plaintiffs' lawyers could obtain names and addresses of those notified. In our society, where we sue first and ask questions later, notification to unstudied workers is simply an invitation to sue.

The accuracy of this observation ought to be intuitive. But it is also based on real world experience. The minority views of the committee report mention the example of a Government notification study in Augusta, GA. About 800 employees of the Augusta Chemical Co. were notified by a NIOSH notification study started in 1979 that they may have been exposed to betanapthylamine [BNA] and were at an elevated risk of bladder cancer. Although 13 employees actually had bladder cancer, 171 filed lawsuits. This notification resulted in $335 million in lawsuits. Settlements for various amounts totaled about $500,000 which was not covered by insurance. Associated legal fees totaled about $1,000,000.

This example illustrates the enormity of the liability ramifications of H.R. 162. Small businesses in America would be devastated. With the threat of a litigation flood, small businesses would be bankrupt because of a lack of insurance for these claims or lack of certainty as to when or how these claims would be covered.

There are other problems with H.R. 162 beyond liability implications. But it seems this notification procedure strikes at the core of our system of justice and our economy. It flies in the face of our attempts to grapple with the litigation exploration.

Fortunately, there is a commonsense alternative—the Jeffords-Henry substitute. This is a balanced and responsible approach requiring notification of workers for which NIOSH already has risk information. Moreover, a commission would be established to monitor and report on the value and impact of this notification within 2 years. This reflects the reality of reliability and litigation problems.

Let us not plunge into a system that assures that innocent businesses, falsely identified workers, and our system of justice will suffer. Support the Jeffords-Henry substitute.

Mr. GAYDOS. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, workers have a fundamental right to be informed of their exposures to hazardous substances and the possibility of related illnesses. There is a moral obligation on the society which has benefited from the labors of workers to provide them with opportunities for and access to therapeutic assistance. H.R. 162 would fulfill these responsibilities.

The program established under H.R. 162 will correct a serious deficiency in our Nation's public health system—the lack of a clinical program for the prevention or reduction, and eventual elimination of occupational diseases. Despite the widespread knowledge of workplace hazards, and the increased publicity surrounding particular hazards in certain industries, many workers who have left jobs in those particular environments are unaware that they are at increased risk of disease. Furthermore, Federal efforts to inform workers currently exposed to hazardous substances are extremely limited in scope and content, and fail to provide the necessary counseling and followup assistance. H.R. 162 is intended to correct these omissions.

We are not breaking new ground here. The knowledge and technology exits to enable us to prevent occupational diseases, or at least to detect the onset and arrest the progress of those diseases. H.R. 162 will put that intelligence and those techniques to work in a comprehensive manner.

The program established by the bill will notify thousands of workers of their increased risk to occupational diseases; provide the individuals with access to trained counselors and health professionals in designated clinical facilities equipped to handle occupational illnesses; and provide opportunities for the personal physicians of those individuals to acquire greater proficiency in the detection and treatment of occupational diseases so as to better serve their patients.

This legislation will achieve these crucial public health objectives in a cost-effective fashion. For the modest sum of $25 million a year, we will begin to curb and eradicate occupational illnesses which cost the Federal Government several billion dollars annually in outlays for Social Security disability benefits and Medicare/Medicaid costs.

H.R. 162 is necessary because currently there is no Federal program that would achieve the objectives of this legislation. Neither OSHA, NIOSH, EPA, nor any other Federal program is required to or has undertaken to identify worker populations at increased risk of disease, to notify those workers, and to offer the extensive assistance which will help them to avoid severe disabilities and premature death.

The legislation is feasible because the concept has been tested successfully in pilot projects. The proposal is fiscally sound. It can be carried out with a minimal expenditure of Federal dollars, and eventually will help to offset the billions of Federal moneys being spent to support and treat workers disabled from work-related diseases.

I want to express my deep appreciation for the manner in which the gentleman from Pennsylvania [Mr. GAYDOS] has handled this measure. In both the 99th and 100th Congresses, the gentleman held extensive hearings, listening to testimony from many people with varying views for and against the bill. After the hearings and through subcommittee and full committee mark ups, the gentleman maintained an open mind, consulted frequently with interested parties, and made significant changes in the bill to accommodate concerns. As a result, the committee bill has picked up considerably more support from the business and scientific communities. Despite these achievements Mr. GAYDOS has continued working to accommodate other concerns, and he will offer amendments today which reflect his success at consensus building. I congratulate the gentleman from Pennsylvania for an outstanding job in forging a coalition of support for this essential worker protection legislation.

I must say a few words about the substitute that will be offered by my good friend from Vermont, Mr. JEFFORDS, the ranking Republican on the Committee on Education and Labor. I have the highest regard for the gentleman, and I know that his motives are sincere. However, his substitute is just not the answer to the needs of workers who have been, and are being exposed to hazardous substances in their workplaces. I regret that I must oppose the gentleman's proposal, but it is obvious that the substitute will not offer the kinds of special advice, counsel, and preventive measures that are embodied in the committee bill, H.R. 162.

Workers deserve to know about their increased risk of occupational disease. They deserve to be given an opportunity to obtain professional assistance which, in many cases, will help them to avoid severe disabilities and premature death. I urge my colleagues to give workers that chance by adopting H.R. 162.

Mr. JEFFORDS. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, let me highlight what I believe are the five key issues in this debate.

1. RISK NOTIFICATION VERSUS HAZARD COMMUNICATION

Since the debate on this bill began many months ago, we have focused over and over on the difference between risk notification, which is called

for in H.R. 162, and hazard communication, on which the Jeffords-Henry substitute bill is based.

Risk notification is a retroactive attempt to identify and locate employees who may have been placed at risk in their work environment. Hazard communication is a proactive effort to prevent exposures from occurring in the first place through labelling of containers, training of employees on working with chemicals, and so forth.

Hazard communication is primary prevention. Risk notification is, at best, secondary prevention and by definition less effective at preventing disease. And when combined with overnotification, as in H.R. 162, the problems brought on may well exceed any benefits to worker health.

H.R. 162 does nothing to improve hazard communication, or to reduce workers' exposure to hazardous substances in the workplace. It simply establishes a new program to review past risks of exposure of some 20-30 million workers, regardless of whether those workers have actually suffered harmful health effects. The Jeffords-Henry substitute codifies recent expansions of the workforce covered under hazard communication standards, places additional focus on that program within the Department of Labor, and updates the hazards against which the workforce is protected. It also establishes a program of risk notification by NIOSH, which involves workers and former workers who have actually been studied by the Government. It thus avoids the "overnotification" inherent in H.R. 162, which would extrapolate the results of studies of one population of workers to others who have not been studied.

2. COSTS

Both H.R. 162 and the Jeffords-Henry substitute involve some increase in costs to the Federal Government and to the private sector. The question is cost effectiveness.

Supporters of H.R. 162 have spent a good deal of effort in trying to show that their bill would not be overly expensive for business. Their projections are based on:

First, 100,000-300,000 individuals receiving notification annually; and

Second, most of those notified not seeking medical attention, or no longer working for the employer where the possible exposure took place.

Let me simply point out that nothing in the bill limits the new Risk Assessment Board to this number of notifications. If these numbers were accurate, however, it would take from 50-150 years for the Board to notify just those workers HHS has estimated are likely prospects for initial notification. If we're interested in doing something for workers now, then a strong hazard communication program makes far more sense.

Recognizing that the Board is not likely to limit its notifications to a few per year, others have tried to calculate the cost to the private sector:

The GAO says costs are incalculable due to unknowns. The machine tool industry has presented the only econometric model of H.R. 162, and projects minimum increases of wholesale product costs of 2½ to 8 percent on its entire product line.

The American Iron and Steel Institute estimates costs for that industry alone "at a minimum," of $1.5 billion. The Augusta Chemical Co. of Augusta, GA—the only instance in which a risk notification program has experimentally been implemented by the U.S. Government—estimates its cumulative costs have been $5,000 per employee notified.

3. LIABILITY

H.R. 162 provides that workers potentially exposed to a "risk" be notified of that fact. The problem, however, is that the fact of notification, as opposed to the question of whether or not the employee has suffered actual injury, will generate workers' compensation and tort suits.

Sponsors of H.R. 162 claim the bill is "liability neutral" because the fact of notification cannot be entered in a court of law. But evidence surrounding the notification, and probably the notification itself, can be! Further, the Government lists as to who has been notified can be easily obtained—hence "class action" suits can be expected to rise rapidly. Finally, in many states, the "stress doctrine" makes compensable the stress which notification may cause, whether or not the individual suffers any harmful health effects from job exposure.

4. PREEMPTION

Some have misleadingly argued that the Jeffords-Henry substitute would preempt State and local hazard communication and right to know laws that meet and exceed Federal standards. That is not the case. The substitute is absolutely silent on the issue of preemption. State worker right to know laws in "State plan" States would continue to be enforced by the States, unless it is determined by OSHA that they are not as effective in protecting worker health and safety as is the Federal standard.

The question of whether State laws in other States are preempted by a Federal right to know law is one that has been in the courts for some time. The current court rulings indicated that, to the extent the Federal Government regulates the Federal law preempts, but if States regulate in areas not under an OSHA program, those laws are not preempted. In any event our substitute bill does nothing to change the status quo in terms of preemption. It does however increase protections under the Federal OSHA standard.

5. PREVALENCE OF OCCUPATIONAL DISEASE

Supporters of H.R. 162 have used various figures on the extent of occupational disease—the most commonly cited are 100,000 deaths and 350,000 victims. They have also suggested that H.R. 162 would prevent those deaths and injuries.

While none of us would minimize the importance of addressing any occupationally related death or injury my colleagues should know that the figures being cited as to the prevalence of occupational disease come from studies which have been thoroughly discredited.

More importantly, the suggestion that this bill will save those lives is simply misleading. Unfortunately, many of the diseases related to occupational exposures are simply not detected by simple monitoring, or treatable if they are detected. And as I mentioned, it would take years, if the supporters are right about the size of the program, to even notify a small portion of those who potentially may have been exposed. Again if we want to spend our money in the most effective way, preventing exposure from taking place is the way to do that, and that is what the Jeffords-Henry bill would do.

Mr. JEFFORDS. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I would like to thank the gentleman for yielding time to me to discuss this issue. Many of us, over the past few weeks and months have been attempting to educate the Members of this body on the dangers of H.R. 162 and the merits of the Henry-Jeffords substitute. I would like to expound two of these points at this time.

While there are many problems with H.R. 162, my main concern is the anticompetitive impact this bill would have on small businesses. As a small businessman, I understand how vital the small business community is to the strength and economic well-being of this Nation. Last year, small businesses provided a livelihood for over half our population and jobs for 45 percent of our Nation's total nonfarm workforce. Simply put, this meant jobs for 45 million Americans. Put another way, jobs provided by small business were 10 times greater than all the jobs in the Federal Government and 3 times greater than the total number of jobs of the Fortune 500. Last year, small businesses also produced 39 percent of our gross national product. This translated to $1,400 billion

Small business is vital to the well-being of our national economy. I think few Members of this body understand how vital. Certainly the authors of H.R. 162 do not. Let me describe one provision of the bill.

H.R. 162 contains an employee transfer provision. In my own company, Plastic Packaging, Inc., which converts and prints polyethylene bags for various products, I employ around 200 people. Thirty of these employees are pressmen and they are crucial to my business. In addition to fringe benefits which add about 40 percent to my payroll costs, these 30 employees are my most highly paid employees, making $10 per hour.

Under H.R. 162, let's say that five of the pressmen are notified that they may be "at risk" in contracting a disease from exposure to a chemical during previous employment. If it is determined by a physician that each of these five pressmen should not continue in their current job at my plant, for any reason, I would be required, by this provision, to transfer the five pressmen to other jobs at current salary and with no loss of benefits. Now, if I had no other positions to which a transfer could be made, I would be required to keep them on the payroll for 1 year with all job rights guaranteed.

What is the cost of this to my business? I would be required to pay each of the pressmen their salary of $20,800 per year, plus benefits, totalling $145,000. In short, the costs to my business under this provision and in just one instance would be almost $150,000. This may be "peanuts" in Washington, but not to a small manufacturer. And, remember, these five pressmen were not even exposed in my plant.

Recalling the importance of the small business sector of the economy, do we really want to saddle them with this kind of cost increase? Most small businesses operate on a small profit margin, and in many cases, this additional cost would be the death knell. These mandated pay and benefit requirements are unprecedented in Federal law and would be followed by an unprecedented number of small business failures.

But, the adverse impact of H.R. 162 on small businesses does not stop there. In addition to the employee transfer provision which is simply a federally mandated benefit, H.R. 162 mandates another benefit by requiring employers to make available medical monitoring to employees who are included within a population at risk.

When the Risk Assessment Board determines that an exposure to a substance mandates a notification, employers would be required to provide medical monitoring at no cost to current employees. This monitoring would be required whether or not the employer provides for health insurance. The administrative burden on particularly small businesses to comply with this requirement would be horrendous. Small businesses are already overburdened with the likes of COBRA. And like COBRA, small businesses would be subject to stiff penalties and fines for failure to comply.

Simply put, the well-being of many small businesses—the sector of the economy which creates jobs—would be at risk. This body talks a lot about competitiveness, and it spends a lot of money studying it, and debating it. Let's stop paying lip service to small businesses and do something to help them survive. Cast a vote for small business, vote "no" on H.R. 162.

Instead, support the Henry-Jeffords substitute. This is a substantive proposal which will protect workers and prevent disease in the workplace without bankrupting businesses and throwing people out of work. This substitute goes directly to the problem by requiring preventive measures designed to eliminate hazards which may contribute to the disease. It also:

Requires OSHA to create an Office of Hazard Communications.

Requires OSHA to update the permissible exposure limits for more than 400 hazardous substances within 1 year after enactment.

Requires employers to notify any employee who is being exposed to a hazardous substance in excess of existing OSHA exposure limits.

Requires employers to inform former employees of a listing of hazards present in the workplace while they worked there.

Requires the Secretary of Labor to consider expanding the OSHA hazcom standard to include medical monitoring information and expanded hazard training.

We are all working toward the same goals—the prevention of disease and protection of the American worker. The Henry-Jeffords substitute accomplishes these goals in a practical, straightforward manner. It builds on existing programs and does not so burden small business as to put their economic health at risk. I strongly urge my colleagues to vote for the Henry-Jeffords substitute and against H.R. 162.

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Mr. GAYDOS. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. Mr. Chairman, I rise as a cosponsor and strong supporter of H.R. 162. This is a carefully crafted and very responsible piece of legislation aimed at reducing the occurrence and severity of workplace-related health problems.

Every year, some 100,000 workers die and 340,000 more are disabled as a result of exposure to hazardous substances in the workplace. Business lose as much as $4.3 billion a year due to occupational disease, and American taxpayers are left with an annual medical bill of $5.4 billion resulting from occupational disease.

This legislation establishes an effective program of research, notification, counseling, and health monitoring aimed at addressing this very serious problem. I want to commend my good friend and distinguished chairman of the Health and Safety Subcommittee, Mr. GAYDOS, for his leadership on this issue, and I urge my colleagues to join me in supporting this important measure. Our American work force needs and deserves that support.

Mr. Chairman, at this time, I would like to engage the gentleman from Pennsylvania, [Mr. GAYDOS] in a colloquy.

Mr. Chairman, I would like to take this opportunity to discuss with you the sections of the bill [4(b)(2)(A) and 5(f)(1)] which deal with Health and Human Services Department access to employees work histories.

Mr. GAYDOS. If the gentleman will yield, I would be glad to discuss those sections with the gentleman from New York.

Mr. BIAGGI. In those sections, HHS is given access to the names, addresses, and work histories of Federal, State and local employees subject to notification. The term "work histories" is defined in the report as referring to a record of where a person is working or has worked, and for how long; the kinds of work done and for how long; and exposure records, if any, and medical records for that person. As we know, this bill is meant to protect employees for their activities for the past 30 years. In some instances, the work histories may no longer exist or be incomplete. Is it the chairman's understanding that so long as the employer makes all available records accessible to HHS that the employer has complied with the provisions of the act.

Mr. GAYDOS. I concur with the understanding of the gentleman from New York. We cannot require employers to produce records that they do not have. This does not, of course, mean that we in any way condone withholding of any such records that do exist.

Mr. BIAGGI. I thank the gentleman.

Mr. JEFFORDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I rise in strong opposition to H.R. 162 as currently written and to urge all my colleagues to support the Jeffords-Henry substitute.

No one denies that hazards in the workplace are a legitimate concern, but the present version of this bill—involving as it does the creation of a new Federal bureaucracy and a limitless potential for frivolous litigation—is the wrong way to deal with the problem. A better course is to expand the existing worker protection structure, as my good friends and colleagues propose to do in their substitute.

For this Congress to even consider passing H.R. 162 as currently written is a self-contradiction. In hundreds of newsletters, town meetings, floor speeches, and constituent correspondence, all of us have declared our determination to close the Nation's trade deficit and enhance the ability of American firms to compete in world markets.

Toward that end, we have gone so far as to pass the protectionist omnibus trade bill; we have passed special trade barriers for the benefit of the textile industry; we have sought to reduce the Federal deficit which contributes mightily to our trade problem. If there is one clear policy theme running through the major legislation of the 100th Congress, it is that our trade gap must be narrowed.

Yet here we are considering a bill which will impose harsh costs on our manufacturing industry, the very sector of the economy hardest hit by foreign competition.

There is no way that we can go before our constituents and seriously pretend to be dealing with the trade deficit while we consider a bill that will make it worse.

H.R. 162, of course, is only one of a series of labor bills that will have that effect. The dual shop bill that we passed in June, mandated parental leave, Davis-Bacon expansion, plant closing restrictions, the minimum wage hike—all of these, taken together, make a mockery of our efforts to improve American competitiveness. Rhetoric about reducing the trade deficit aside, if we pass these bills, the lasting mark of the 100th Congress will be to increase the burden on American industry, widen the deficit, and spawn a real deindustrialization of America. And, believe me, that will not go unnoticed by our constituents next fall.

How does this bill, as now written, hinder our competitiveness?

Groups supporting it argue that it costs practically nothing. The only new appropriation they're asking for is a mere $25 million—an insignificant sum by Federal standards although I have no doubt that it will balloon well beyond that.

But they are refusing to consider the costs that this legislation will impose on the private sector—not just the Fortune 500, but rural manufacturers, machine tool operations—virtually any company, large or small, that is engaged in manufacturing.

These businesses will all be vulnerable to the explosion of meritless liability suits that H.R. 162 will create. The simple fact is that by notifying workers that they may have been exposed to hazards from which they may suffer consequences will lead to a torrent of mostly groundless lawsuits. If a worker with a lung ailment is told that he may have been exposed to a respiratory hazard, he can sue—even if his ailment was really caused by his two-pack-a-day 30-year cigarette habit. Even if a worker is perfectly healthy but has been told by the Government that he might have been exposed to a hazard he can still sue—on the alleged grounds that he is now suffering from a fear that he might get sick.

It's worth noting that the AFL-CIO has already set up the "occupational health legal rights foundation." I have no doubt that it will be busy. In a 1979 NIOSH pilot risk notification study involving 850 individuals, $335 million in lawsuits were generated. That is just a hint of what will happen if we pass this bill.

We all know what tort liability and product liability is doing to our economy; we've been considering bills to reform our liability laws and restrain the lawyers for years. What sense, then, does it make to pass a bill that is going to multiply the problem many times over? American businessmen cannot be expected to compete with Japanese engineers when they are buried under paper generated by American lawyers.

And there are other costs. We have econometric models that show that the job transfer and job guarantee provisions, along with other mandated benefit costs, will add 4 to 8 percent to the wholesale price of the products of small- and medium-sized manufacturers. That's 4-to-8 percent new overhead on top of the litigation costs. Wait till they hear that in Tokyo.

What all this means is that H.R. 162 will, in effect, impose an enormous tax on the very businesses that are struggling hardest with foreign competition. Pass this bill and we'll be kicking them when they're down.

That is what H.R. 162 will do in its present form. Now compare that to the Jeffords-Henry substitute.

The Jeffords-Henry substitute aims not solely at risk notification, but at hazard prevention. It doesn't simply tell workers decades after the fact that they have been exposed to a hazard, it seeks to protect workers from hazard exposure in the first place. In doing so, it doesn't create an expensive new Federal bureaucracy, it instead fills in the gaps in current laws and regulations. None of H.R. 162's potential for a litigation explosion are present in the Jeffords-Henry substitute, and it will not impose crippling costs on the private sector.

H.R. 162 is an assault on American competitiveness. It will benefit no one but our legions of lawyers. I strongly urge my colleagues to reject it by voting "yes" on the Henry-Jeffords substitute legislation.

Mr. JEFFORDS. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Chairman, I rise in strong opposition to H.R. 162, the High Risk Occupational Disease Notification and Prevention Act. H.R. 162 is fundamentally flawed and does not address the issue at hand. H.R. 162 would establish a process that fails to accomplish the primary legislative objectives of preventing occupational disease and increasing occupational safety. Proponents of this legislation would have you believe that H.R. 162 would prevent occupational disease, reduce occupational health risks, and inform and counsel workers on work-related health hazards.

But what would happen is this: H.R. 162 would create a new autonomous Federal agency within HHS. This new agency, the so-called Risk Assessment Board, would spend its days gathering available study data. The Board would carefully pour over available information on the health risks associated with certain substances found in workplaces. When the Board has determined that occupational hazards are associated with a particular substance that possibly caused health problems in the study group, the notification process begins.

Thousands of workers in various locations would receive a Government notification that says, "You might have been exposed to a hazardous substance while on the job that might cause you to contract one or more of the following diseases some day." If I were given that kind of information, I am not sure who I would call the—the doctor, lawyer, or employer.

Clearly, the best way to reduce and prevent occupational disease is to reduce workplace health hazards and educate workers on how to work around hazardous substances. Workers cannot protect themselves from unnecessary exposure to hazardous substances with a piece of paper that explains to them that it may be too late. The risk notification program in H.R. 162 puts the horse before the cart—information to report possible exposure rather than information to prevent exposure—a convoluted way of addressing the issue.

Proponents of H.R. 162 have chosen to ignore the fact that there are Federal agencies already responsible for ensuring the occupational health and safety of the work force. While NIOSH currently conducts onsight studies and evaluations of occupational health hazards, H.R. 162 would require that the Board review existing data to determine workplace health risks. The determinations made by NIOSH more effectively respond to specific work-related health risks. The Risk Assessment Board would make more general and broad assessments of potential health risks. This board could wrongly trigger massive notification to thousands of workers who are not actually at risk.

Workers already have the right to know that there are health hazards in their workplace. Current Federal law ensures a workers right-to-know through the hazard communication standard. The hazard communication standard currently requires that employers notify workers of an identified health hazard. The notification must inform workers of preventive measures that they can take to avoid exposure to hazardous substances. This standard applies to almost all employers.

The best way to reduce occupational disease is to inform and train workers on work-related health risks. H.R. 162 would establish an ineffective notification and counseling process that would not address the critical issues—prevention and training. H.R. 162 is no improvement over the present Federal mechanisms that address occupational health problems. H.R. 162 should be rejected by the House and I strongly urge my colleagues to consider how

flawed this legislation is. Vote "no" on H.R. 162.

Mr. GAYDOS. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I rise in support of H.R. 162. Despite its small price tag—$25 million—this is one of the most important pieces of health legislation the 100th Congress will consider. H.R. 162 has the potential to prevent thousands of deaths from occupational disease easy year and tens of thousands of disabling illnesses. It could eventually save the Federal Government and its taxpayers, employers, and employees billions of dollars in health care costs each year.

Let me explain in simple terms what H.R. 162 will do:

First, it establishes a nine-member Board of Risk Assessment composed of top scientists, physicians, and biostatisticians nominated by the nonpartisan National Academy of Science.

Second, the Board is directed to review all available medical and scientific data to identify and designate populations at high risk of contracting occupational diseases. The Board will give priority to employee populations whose members are most likely to benefit from medical monitoring or health counseling.

Third, the Board will then notify each individual in the at-risk population of the nature of the exposure, the disease associated with it, the most appropriate medical monitoring and the name and address of the nearest health center designated under the act.

Fourth, once notified, an employee may pay for medical monitoring or—if the current employer exposed the employee to the hazard—the employer will pay for it. The purpose of the medical monitoring is to detect diseases early in their development, when changes in health habits can be effective in preventing the disease's progress or when medical techniques such as chemotherapy and surgery may be most effective.

Mr. Chairman, I include the following chart, which lists a number of occupational diseases which respond to the medical interventions listed beside them, be included in the RECORD. The chart was prepared by Dr. Philip J. Landrigan, the director of the Division of Environmental and Occupational Medicine at the Mount Sinai Medical Center.

Condition and Form of Treatment

Lead Poisoning.	Chelation therapy and removal from exposure.
Mercury Poisoning.	Chelation therapy and removal from exposure.

Condition and Form of Treatment—Continued

Silicosis.	Reduction in exposure, smoking cessation, supportive pulmonary therapy.
Asbestosis.	Reduction in exposure, smoking cessation, supportive pulmonary therapy.
Coalworkers' Pneumoconiosis.	Reduction in exposure, smoking cessation, supportive pulmonary therapy.
Cancer of the Bladder.	Colonoscopy and early surgery.
Cancer of the Colon.	Cystoscopy and early surgery.
Cancer of the Nasal Sinuses.	Early surgery and radiotherapy.
Peripheral Neurologic Disease.	Cessation of exposure and physiotheraphy.
Anthrax.	Rapid antibiotic therapy.
Tuberculosis.	Antibiotic therapy.
Skin Cancer.	Early surgery.
Pesticide Poisoning.	Removal from exposure and specific antidotes, such as PAM.

This is the key to H.R. 162. As Dr. Landrigan testified before the Senate Labor Subcommittee, "Medical intervention subsequent to exposure is effective for the treatment or alleviation of symptoms of many, although not all, occupational diseases. Further, it is almost axiomatic that such intervention is more effective if undertaken early, rather than late." In English everyone can understand, that means that the sooner people find out that they've been exposed to dangerous levels of toxic chemicals, radiation, viruses, or other hazards, the sooner they get to a doctor for testing and treatment, the more lives we'll save. The American Cancer Society estimates that 165,000 Americans will die this year just because of late detection of disease. H.R. 162 will reduce that number in future years.

In keeping with OSHA's current cotton dust and lead standards, the bill provides a procedure for the medical removal of a notified worker from a position in which that worker is exposed. The worker must be transferred to other duties without loss of earnings, seniority, or other benefits.

Fifth, finally, H.R. 162 establishes a series of health centers to train and assist physicians engaged in monitoring and treating notified employees. Ten centers will be designated within 6 months; another 40 must be designated within 5 years. The health centers and other institutions will be given grants to develop improved means of identifying at-risk populations and of monitoring and treating occupational diseases. Of the $25 million authorized for each fiscal year, at least $4 million is reserved for this grant program.

Officials of the National Institute for Occupational Safety and Health testified that H.R. 162 is "medically sound and scientifically workable." I urge its adoption.

THE LIABILITY ISSUE

The argument against H.R. 162 that most troubles Members of Congress is the speculation that risk notification will lead to an enormous increase in workers's compensation claims and tort litigation. While the law will undoubtedly lead some people, for example, to link their cancer with their workplace who otherwise would not have made the connection, actual experience shows that risk notification rarely leads to litigation.

Celanese Corp., which has had a notification program and medical monitoring program for 10 years, testified that they have not had an increase in legal claims against the company.

The Post Allegheny, PA, asbestos exposure program notified 854 workers that they were at high risk of lung cancer. Seventy percent of them are still being monitored, yet no claims have been filed against the company that exposed them since the project began.

The largest notification project to date is the Pattern Makers project, which notified 12,000 workers at 700 different workplaces in 27 States and 3 Canadian Provinces that they were at high risk of colon rectal cancer. Despite 219 suspected cases and 12 confirmed cases of colon or rectal cancer, few, if any, claims have been filed.

The one project that did engender litigation was the Augusta, GA, NIOSH pilot program. Two-hundred and forty-nine workers were notified that they were at high risk of bladder cancer, which is fatal without early medical intervention. Fifteen workers had confirmed cases of bladder cancer, and another 22 showed signs of the disease. Claims totaling $335 million were filed against the company by the workers and their families.

But the company's actual liability was a tiny fraction of the total claimed. The company settled 120 of the 171 cases out of court for a total of $500,000. Every other case was dismissed by the Georgia Supreme Court.

Why was this firm sued, when the 700-plus companies in the other notification projects were not sued? Perhaps it was because the chemical at issue in that plant had been known to be a carcinogen since the 1930's, a chemical banned in Great Britain and Switzerland since the 1950's. Perhaps it was because every other American company had discontinued production and use of that known carcinogen, but the

Augusta plant continued to expose its workers to it.

In any event, the company's total liability—$500,000—was not extreme. This one case cannot discredit the concept and successes of risk notification, especially since H.R. 162 contains explicit safeguards against litigation and especially against spurious litigation based not on real injury but only on stress or anxiety produced by the fact of notification.

Section 8(b) of the bill states unequivocally that notification, inclusion in an at-risk population, and monitoring "may not serve as a legal basis for or be introduced as evidence in connection with any claim for compensation, loss, or damage brought under State or Federal law."

As the House report states on page 15, this means that "claims seeking compensation for stress, fear of disease, or emotional harm would be barred."

A claim for an actual injury or disability such as death from cancer or disability asbestosis would not be barred, but no one believes real injuries should be uncompensated.

Mr. JEFFORDS. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, today we are considering legislation that while well-meaning—takes us the wrong direction in providing protection to America's workers.

Based on underlying assumption that early detection will lead to prevention H.R. 162 is championed by supporters as an initiative that would prevent occupational disease through the notification and medical monitoring of workers at increased risk due to former exposure to hazards in the workplace.

However, in reality, this legislation would not result in increased worker protection and prevention as much as it would misdirect limited Government and private resources away from substantive preventive efforts.

What would H.R. 162 actually do—and what are the concerns associated with it?

First, it would set up an expensive, duplicative, new layer of bureaucracy within the Federal Government with overwhelming task of identifying and notifying all workers, past and present, determined to be at risk. A nearly impossible task in and of itself, not even taking into account the scientific difficulties of determining who should be included in the "at risk population."

Second, it requires the costly establishment of 50 new occupational health centers within the next 5 years, just to meet the requirements under this act.

Third, it requires that all employers, even those who have never been remotely associated with occupational health hazards, to provide medical monitoring for those employees determined to be "at risk"—even in cases where employees were exposed in previous jobs.

Further, under the bill's "job removal" protections, if an "at risk" employee's physician determines he or she should be transferred to a less hazardous job, the employer must provide such transfer and, if no such job exists, pay and benefits would have to be provided for at least 1 full year.

Again, these requirements are imposed upon employers even if the exposure did not occur under their employment.

This presents a major concern, particularly for small businesses, who will be especially hard-hit by the costs of medical surveillance and medical removal.

And for agricultural businesses, particularly given the high rate of turnover among agricultural employees.

In fact, as I understand it, half of the farmers in the United States are employers who would be affected by the requirements of this legislation.

And finally, and possibly of most concern to me and many of my colleagues, the bill as written, even with its changes to make it supposedly "tort neutral"—would result in an explosion of liability suits and exposing employers to skyrocketing liability insurance rates if even available.

There is legislation however, that would avoid all of these substantial concerns and strengthen existing worker hazard protections.

The Henry-Jeffords substitute which we will consider today builds on the existing OSHA standard:

First, it strengthens OSHA standards requiring employers to provide employees with expanded hazard training and medical monitoring information;

Second, it requires employers to provide former employees a listing of hazards present in workplace when they worked there and it requires they notify any employee who is currently being exposed to hazardous substances;

Third, it requires notification of present and former workers who have participated in NIOSH workplace mortality studies; and

Fourth, it creates a risk notification study commission to conduct a comprehensive study and make recommendations on mandatory risk notification within 2 years.

Besides being a much more well-reasoned approach to occupational disease prevention. The substitute's approach provides direct preventive measures rather than relying on health screening in the hope that a disease can be identified and cured after the fact.

Because of the high potential costs to both the Federal Government and the private sector—compared to the extreme uncertainty over its effectiveness in combating occupation disease—I must at this time oppose H.R. 162.

Employers have no more important responsibility to their workers than that of providing a safe working environment and I don't argue with the concept that workers should be notified, where possible, of past and present hazard exposure. However, we must find a way to do so more effectively and efficiently than the way provided for under H.R. 162—and the substitute provides us with that avenue at this time.

Mr. GAYDOS. Mr. Chairman, I yield 5½ minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman I rise in support of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987. I am pleased to be a cosponsor of this legislation, and I want to take this time to thank Chairman JOE GAYDOS for hearing my concerns with H.R. 162 and for incorporating many of those concerns in the legislation before us here today.

I want to limit my comments today to the notification process created in H.R. 162 because it has been the subject of a great deal of debate and misunderstanding.

I believe it is important to have a mechanism to identify and notify those workers who are truly at high risk of occupational disease and let me add that Chairman GAYDOS has done an outstanding job of formulating a balanced approach to insure that. The bill we have before us today is far different from the one that was introduced earlier this year. Chairman GAYDOS and his staff have worked with representatives of both the business community and organized labor to insure that the bill is scientifically defensible, workable, and fair—an approach I proposed last year.

The Risk Assessment Board created in this legislation will have a difficult task to perform. It must balance the basic mandate of this act—that of early notification of workers who face possible occupational disease because of exposures at work—with the conservative nature of epidemiology—the science upon which the determination to notify a group of workers is to be made. Failure to balance these factors will produce undesirable results. If the board demands incontrovertible proof of cause and effect on a 1-to-1 basis, workers will not be adequately forewarned of the risk of disease they face. On the other hand, if the Board does not require a rigorous scientific review of the evidence presented to it to insure adherence to established scientific principles, notifications may be sent out that are not justified.

Epidemiology is the statistical science that attempts to associate a re-

ported health effect with a cause. The detective work that goes into such efforts is quite complicated and can sometimes produce results which do not bear out under further scrutiny. The classic example is the work performed in London in the 1830's to track down the cause of the cholera epidemic. Early scientific work pointed out that people who lived at higher altitudes in London were less likely to get cholera and the scientific principle put forward that bad air quality at lower altitudes in the city led to increased cholera. Further work revealed, however, that the real culprit was water from the Thames, which was carrying the disease through the low-lying areas of London.

There are many modern equivalents of this example. Agent orange provides another example of the limits of epidemiology. Veterans have long suspected a link between various health effects, including cancer, and exposure to the defoliant agent orange during service in Vietnam. Science has been unable to confirm that linkage, however. Most recently, the Office of Technology Assessment concluded that such a linkage can probably never be shown since exposure information is insufficient. There is not enough data from Vietnam to estimate the levels of exposure to agent orange nor are biological tests run on veterans today likely to indicate the degree of past exposure because of the length of time that has elapsed.

Exposure to the chemical toleune was intitially implicated in cases of cancer arising from workplace exposure. Upon further investigation, however, it became clear that the toleune itself was not responsible, but certain grades of toleune that were contaminated by benzene.

I am raising these points not to protest this legislation, but to emphasize the complicated nature of the issue before us. There are no easy answers or triggers for action in this area. I believe the legislation as currently drafted recognizes the complications in requiring the Board to undertake a thorough scientific review and to require evidence of exposure to the agents at levels of concern before making a determination that a notice should be sent. Carried out properly, the bill will help save lives, but will do it in a way that is based in science, not politics.

Mr. Chairman, we can take no action here today—or we can err on the side of action and insure that workers will be notified of risks in their workplace. This legislation, because it is soundly designed, will insure that only those at risk will be notified, but that all those at risk will receive that notification.

I join with many here today to congratulate Chairman GAYDOS for his good work and to urge passage of this important legislation.

Mr. Chairman, what is the basis for the finding of the Risk Board that a group of employees is a "population at risk?" Is a finding of statistical significance in an epidemiological study sufficient to trigger a finding by the Board?

Mr. GAYDOS. If the gentleman will yield, the answer is no. Statistical significance by itself is not sufficient. The Board must closely review the scientific evidence presented to it in light of established scientific principles. These have been enumerated in section 4(b)(3) and include consistency of association, specificity of association, strength of association, dose-response relationships, biological plausibility, and temporal relationships. In addition, the Board must consider the health consequences of notifying or failing to notify. In short, the Board must look at the totality of the scientific evidence, evaluate its validity, and determine its relevance to specific groups of employees.

The science of epidemiology is yet young. Although basic principles of epidemiology have been established, many complications can arise in practice. Sometimes the required principles are not rigorously followed, raising doubts about the validity of the results. Sometimes application of those principles to the real world—to specific groups of people and circumstances—raises more questions than it answers. For example, rare events can occasionally occur in clusters merely by chance, not attributable to any cause. In a recent article on video display terminals, for instance, K.R. Foster reports on clusters of birth defects occurring in children of mothers exposed to video display terminals. Some of the clusters were statistically significant, but could not be associated with exposure to VDT's. Foster concludes, that "an epidemiologist would consider the reported clusters to be provocative, but inadequate to demonstrate any connection between reproductive problems and VDT's."

Mr. PENNY. In the absence of other information, would you anticipate that this is sufficient evidence for the Board to make a "population at risk" finding?

Mr. GAYDOS. No. Clearly the function of the Board is to make findings only after a full scientific review establishes that there is a connection between an exposure and a health outcome based on established scientific principles. It is a waste of resources and presents needless anxiety to notify those employees who are not truly at risk.

□ 1315

Mr. PENNY. I thank the gentleman for adding this information to the RECORD.

Mr. GAYDOS. Mr. Chairman, may I inquire of the Chair how much time I have remaining?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GAYDOS] has 17½ minutes remaining and the gentleman from Vermont [Mr. JEFFORDS] has 25 minutes remaining.

Mr. JEFFORDS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the High Risk Disease Notification and Prevention Act of 1987 (H.R. 162) and in support of the Jeffords-Henry substitute. This poorly crafted legislation is opposed by the Reagan administration, the National Association of Manufacturers, the National Federation of Independent Business, the U.S. Chamber of Commerce and 310 other industry associations and companies.

Mr. Chairman, I am opposed to the requirement in H.R. 162 that the Federal Government undertake notification of workers, for a number of reasons including the scientific difficulties of projecting risks to nonstudied workers, the practical difficulties of identifying and locating nonstudied workers and the likelihood of false notification. I am also concerned about the high potential cost of H.R. 162 as compared to the extreme uncertainty over its effectiveness in preventing occupational disease. In addition to the increased cost or nonavailability of liability insurance, small business will be especially hit hard by the cost of medical surveillance and medical removal.

In addition, this legislation would result in substantial tort litigation and Federal liability and would impose enormous costs on employers, consumers, workers, and the Federal Government. In one pilot project where the Federal Government notified some 800 workers of a nearly bankrupt company, some $335 million in claims were filed. While most of the claims were settled or dismissed, the transaction costs were substantial and continue today in the court some 8 years later.

Mr. Chairman, the administration is already carrying out several administrative and regulatory efforts which will not only provide information to workers and prevent occupational disease but would also avoid many of the legal and practical difficulties of H.R. 162. For example, the administration has recently expanded OSHA's hazard communication standard to all private sector employees. This standard will be effective in preventing occupational disease rather than simply detecting it.

Mr. Chairman, there is a better alternative to reducing occupational health risks—the Jeffords-Henry substitute. This proposal emphasizes prevention of disease, builds on existing Federal programs, and would avoid many of the litigation and liability implications, as well as the practical difficulties of the broad risk notification approach envisioned by H.R. 162. The administration, NFIB, and many industry groups strongly support the approach taken in the Jeffords-Henry substitute.

I encourage my colleagues to oppose H.R. 162 and support the Jeffords-Henry substitute.

Mr. JEFFORDS. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, I rise in favor of risk notification but in opposition to H.R. 162 and in full support of the Henry-Jeffords substitute.

I would like to pick up on where our colleague, the gentleman from North Carolina [Mr. BALLENGER] left off regarding small business and its effects under this legislation.

Mr. Chairman, small business, including the family farm, can ill afford enactment of H.R. 162, the so-called Worker Risk and Disease Notification Act. This all-encompassing legislation will duplicate current programs, worsen the liability insurance crisis, and increase the cost of health care for employers and employees all across the Nation.

If we enact H.R. 162, this body will be inviting an explosion of litigation and skyrocketing business costs. More litigation will mean fewer jobs, lower income, and decreased competitiveness.

H.R. 162 endangers the types of small businesses that thrive in the rural environment such as the local newspaper printer, the grain elevator, the local garment factory with its fabric dies, or the small factory that uses chemicals in quality furniture production. These are the types of businesses that comprise the economic base of rural America. They employ a limited number of people, often fewer than a dozen. They do not have the flexibility to transfer employees to risk-free jobs and due to the nature of their business, all of their employees could fall into the high risk category.

It is estimated that 97 percent of all employers are small businesses and employ 50 percent of the total work force. Also, two-thirds of all businesses fail within 3 to 5 years of startup. Since H.R. 162 can reach back 30 years or longer for notification, what is the probability of: First, tracking the employers and employees of firms that have been out of business for decades; and second, a farm employer maintaining accurate employment records on transient seasonal workers? Valuable resources will be used in a counterproductive manner by attempting to locate individuals who may never show any symptoms of exposure to a hazardous material. These valuable resources should be channeled toward preventing workplace-induced disease.

If we really want to improve the work environment, we need to concentrate on methods of prevention. We need to educate both employers and employees about the dangers of direct exposure to hazardous materials. We need to devise better methods of working with hazardous materials that will reduce risk. Through proper education, improved working conditions can be obtained at costs below those we can achieve through postexposure notification.

The Henry-Jeffords substitute offers a realistic alternative to H.R. 162 by building on current OSHA standards. Rather than closing the barn door after the cows get out this substitute wisely emphasises prevention—not notification after the fact. Employees deserve protection from hazardous substances and this substitute offers the necessary means.

Mr. Chairman, I urge my colleagues to support the substitute.

Mr. GAYDOS. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I rise in strong support of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act. For too long the dangers of occupational disease have been ignored. We shouldn't wait any longer to assist workers who have been exposed to hazards in the workplace.

Understandably, employers are wondering how this legislation will affect them. Well, many members of the business community such as the American Electronics Association, the Chemical Manufacturers Association, and such leading corporations as IBM and General Electric support the bill. They have realized that the charges that H.R. 162 will cripple business operations are exaggerated.

Some claim that this legislation will substantially increase businesses' liability for occupational disease. Is this true? No. The General Accounting Office, the investigating arm of Congress, reports that neither higher litigation costs nor increased business liability will result from this legislation. And does this legislation require companies to pay for the costs of monitoring former employees? No.

And what effect would this legislation have on businesses' operating costs? Businesses themselves already lose an estimated $1.7 billion to $4.3 billion due to the costs of medical treatment and wage losses resulting from occupational disease. So the annual cost of between $3 and $38 million in medical monitoring is minuscule by comparison.

The cost of H.R. 162 to the Federal Government will also be modest. Occupational disease already costs the taxpayer an estimated $5.4 billion in Social Security disability, Medicare, and Medicaid payments. But notifying each employee costs just $33, and the overall cost of the legislation is just $25 million.

If this legislation produces a mere 1-percent decline in the rate of occupational disease, H.R. 162 will more than pay for itself. It is an excellent investment in both human and financial terms.

Mr. Chairman, workers are not responsible for falling victim to occupational disease. So they should not have to bear all of the responsibility for its treatment. Support H.R. 162. American workers deserve no less.

Mr. JEFFORDS. Mr. Chairman, I yield 1 minute to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong opposition to H.R. 162, the High Risk Occapational Disease Notification and Prevention Act as reported by committee to the floor and in support of the Henry-Jeffords substitute.

As we are all well aware, H.R. 162 would establish a program to identify hundreds of thousands of American workers who are at risk of developing a disease because of their on-the-job exposure to toxic chemicals and other hazards. This bill attempts to protect workers through a systematic process of identification, notification, medical testing, evaluation, monitoring, and enforcement. Mr. Chairman, this bill should be defeated because, without question, it is costly, redundant, and unnecessary.

I am concerned about the impact this bill would have on the struggling farm economy. Half of the farmers in the United States are employers who would be affected by this legislation. In addition, most agriculture employment takes place on family farms that employ fewer than 10 workers and most of them are seasonal. Since agriculture workers are a highly mobile force with an enormous turnover from year to year, medical monitoring would place a heavy burden on such employers.

In addition, the bill calls for a worker to be permanently or temporarily transferred to another job, without loss of earnings, seniority, or benefits, if the worker is exposed to hazardous substances and is determined by a physician, subject to a second opinion, to be the proper course of action. This would be close to impossible in the farming business.

The Occupational Safety and Health Administration [OSHA already has broad authority to regulate in the field of occupational safety and health. OSHA recently extended the Hazard communication standard to the nonmanufacturing industry. This will require that agricultural workers be informed of any potential danger of a hazardous substance dealt with on the job.

Also, the Environmental Protection Agency [EPA], which has statutory responsibility to regulate the use of pesticides, is well along in the process of expanding the scope of its existing farmworker protection regulation, and the new rules should be adequate to prevent and monitor health problems that may arise among farm workers.

In addition to duplicating and recordkeeping requirements on businesses and will create a costly and unnecessary new Government bureaucracy. It would also expose businesses to some very expensive, unwarranted litigation. In my home State of Nebraska, 78 percent of the businesses employ fewer than nine people; 89 percent have less than 19 employees. Obviously, such a new regulation would place a heavy burden on these employers as well.

The future is looking better for agriculture and for small businesses, where 70 to 80 percent of all new jobs are being created. All it will take to crush that optimism and put the economy on a downhill slide is for Congress to enact this ill-conceived piece of legislation.

I am committed to the goal of protecting American workers from risks of disease and injury on the job. However, I am also committed to protecting the advances the American economy has made in the last few years in our increasingly international economy. This bill does very little for workers' health and the cost—particularly to small businesses—will be staggering. For these reasons, I urge my colleagues to vote no on H.R. 162!

If my colleagues feel more action is necessary in the notification and prevention area, then the Henry-Jeffords substitute will be more effective in reaching the worker and preventing occupational diseases than H.R. 162. The substitute does not create another bureaucracy; provides for study to determine what effects notification will have on liability, and focuses on the work place rather than the courts as the appropriate forum for preventing occupational diseases. Vote "yes" on the substitute.

Mr. JEFFORDS. Mr. Chairman, I yield 7 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, the High Risk Occupational Disease Notification and Prevention Act, H.R. 162, may be well intentioned, but it is the wrong solution to a serious problem. It assigns the principal responsibility for employee health to the Federal Government rather than to employers and employees. It creates a new, costly, and duplicative bureaucracy in the Department of Health and Human Services, while failing to recognize and build upon the very real advances made with respect to occupational disease hazards under the auspices of the existing Occupational Safety and Health Administration [OSHA]. Finally, and what prompts my decision to actively participate in this debate, H.R. 162 is far from being "liability neutral" or "tort neutral" as its proponents claim. It is my concern that this bill will generate tort actions and that it is this concern that I wish to share with my colleagues.

Admittedly, the bill does not create a new Federal cause of action for occupational health hazards. But, H.R. 162 establishes a procedural framework that will, unquestionably, generate litigation and will greatly simplify the burden of proof for plaintiffs in such cases. The very existence of the notification system—the fact of a letter from an agency of the Federal Government advising a recipient that he/she "may have" been exposed to a disease-causing substance in the workplace— will inevitably lead to a flood of new workers' compensation claims and liability lawsuits.

The notification itself is triggered in the bill by a board finding that a substance "may be" associated with a "risk." This is too loose a standard resulting in notice to too large a group of people. The vast majority of the workers to be notified will never contract or suffer from the disease identified in the notice.

While the bill provides that plaintiffs' attorneys cannot use the notification itself as evidence in their lawsuits, the notification process will produce the basic elements for such claims. First, the notification essentially states the potential cause of action by listing the diseases associated with the potential exposure. The distribution of the notice identifies the affected class of plaintiffs and most important the text of the notice sets forth the scientific studies which are the basis of the notification. Mr. Chairman, these background studies are identified in the notice and will be fully admissable in court under the language of H.R. 162.

What will this mean? A number of States now allow persons to bring claims for damages for fear of future injury even though there is no showing that the person has any symptoms or manifestations of such illness. Since this act would prompt studies of potential health risks, and generate notices to employees that they are at risk of getting an illness, it is creating new potential claims. Tort suits and workers' compensation claims will occur based upon the emotional distress theory—the fear that he or she might have the illness or disease in question. The worry, the stress, the fear that one may become seriously ill in the future—brought on by the notice of a potential workplace risk—becomes the legal "cause of action." The fear of the risk, rather than the health reality, becomes the basis of the lawsuit.

Another line of cases will certainly develop based upon the assertions that the employer supposedly knew about the potential hazard or risk in the workplace before the Federal Government issued the notification. Traditional workmen's compensation rules make the employer immune from tort lawsuits by its employees, in exchange for the employer accepting no-fault liability for workers' compensation claims. This tradeoff reflects the purposes of workers' compensation system—financial security for the worker and the prompt settlement of those claims in a nonjudicial setting.

However, in recent years, this so-called "immunity shield" in workers' compensation law has been circumvented in a number of States. Employee suits have been permitted in a number of States—even when the plaintiff has been successful in a worker's compensation claim—where it is alleged that the employer failed to disclose important health information to his employees. These cases create an exception to the immunity shield, where it is asserted that the employer committed an "intentional tort." That is, the employer "knew with substantial certainty" that a particular health-threatening situation existed and failed to inform the workers. See, for example, *Jones* v. *VIP Development Co.*, 472 N.E.2d 1046 (1984). In short, employees can sue employers in tort getting around worker's compensation.

Under H.R. 162, plaintiffs' attorneys will always be in the position to assert, whether or not it was true, that the employer knew about the potential risk prior to the notification. The lawsuit can be filed leading to settlements and costs pass through.

I also have serious concerns about section 5(h) of the bill which purports to protect the United States and Federal employees from liability. The language of section 5(h)(1) states that officers and employees of the United States can be sued "for any act or omission that is a knowing and willful violation of a provision of this act" to the extent such suits are otherwise possible under Federal law. What this language means is that the Federal employees who were administering this new law may end up being sued in their individual capacity for discretionary decisions relating to the new risk notification system. These suits will be predicated on the "constitutional tort" theory first recognized in the Supreme Court's decision in *Bivens* v. *Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971). Thus, Federal employees are financially threatened in a personal sense and the U.S. taxpayer will pick up the "tab" for the cost of their defense, and perhaps some of the ultimate damages.

Another equally troublesome provision is section 4(d)(4) which allows mandamus actions by "any aggrieved person" against the Secretary of Health and Human Services whenever an agency rulemaking concerning the notification of a potential "population at risk" is not completed within 160 days. This is an abrupt and arbitrary

departure from the Federal Administrative Procedure Act, 5 U.S.C. 553, 556-7. It will interfere with the agency's deliberative process and could force premature decisions before all the relevant scientific facts are evaluated.

Section 5(i) authorizes direct appeals to the federal circuit courts by "any person" who claims to be "adversely affected or aggrieved" by a decision of the Risk Assessment Board to not issue a notice with respect to a particular class of employees. Surely, every decision not to inform a particular class will result in litigation.

All of these examples mean litigation or the threat of litigation against both private-sector employees as well as against the Federal Government, its officers and employees. It is indeed unfortunate, in my view, that the Judiciary Committee did not exercise its jurisdictional rights in connection with H.R. 162 and seek sequential referral. The bill's provisions impact on our committee's jurisdiction in a number of fundamental and important ways:

First, the Federal courts and the impact on Federal court caseloads.

Second, product liability and liability issues generally.

Third, claims against the United States, including the liability of federal employees; and

Fourth, the administrative procedures employed in the bill—which depart from the requirements of the Federal Administrative Procedure Act.

It is hoped that the Members of this House fully recognize that H.R. 162 is not "tort neutral" in any realistic sense. It is legislation that portends a serious, new source of liability lawsuits—to place further stress on an already overwhelmed civil justice system. The right vote for this House is for the Jeffords-Henry substitute, which contains none of the serious defects in the committee bill. I strongly urge my colleagues to vote "aye" on the Jeffords-Henry substitute.

□ 1330

Mr. GAYDOS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Chairman, I rise in support of H.R. 162. This measure is a significant legislative proposal which will establish a needed system for identifying workers who have a high risk of exposure to serious occupational diseases, and which provides such workers with notice of this exposure and counseling services. H.R. 162 rests on a scientifically sound basis, and its sole intent is to prevent occupational diseases. At the same time, it protects employers from new regulatory requirements and additional liability exposure.

Contrary to the arguments raised by opponents, this bill is not a substitute for existing procedures, but, rather, a supplement to them. It encourages workers to seek early medical assistance where there is significant evidence that they have been exposed to toxic substances.

Under the OSHA hazard communication standard, workers are notified of hazardous materials in their place of employment. Thus, injurious exposure to toxic emissions is controlled through regulatory and/or voluntary intervention to eliminate any risk of endangerment.

H.R. 162, however, goes beyond this approach by providing workers with individual notification of exposure to hazardous materials. To reiterate this enables them to receive early medical treatment for past exposure to these materials so any further progress of a disease can be arrested.

Clearly, this H.R. 162 is a logical extension of the OSHA standard.

It is inconceivable that workers should be denied their rights to know about their work environment or receive compensation, especially if this knowledge might result in remedial medical intervention that could avert or control an occupationsl disease.

I urge my colleagues to support H.R. 162, and vote against any amendments that may weaken its provisions.

Mr. JEFFORDS. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, my good friend and colleague in the Pennsylvania delegation, the gentleman from Pennsylvania [Mr. GAYDOS], has worked long and hard on this bill, and I regret that I must take the floor to oppose my good friend and this bill, but I do so because this legislation is not necessary.

The legislation is not necessary because we are already faced with an extraordinary amount of legislation, rules, and regulations in the area of workplace safety and, yes, in the area of hazardous workplace safety, and, yes, even in the area of hazard communication. We have a program. OSHA has a program for hazard communication and that program is ambitious. In addition to hazard communication programs that exist, we have a vast new array of legislation and regulation just coming on line. I am talking about right-to-know legislation that is 75 pages thick as addenda to the Superfund law.

States, including my own State of Pennsylvania, have significant right-to-know legislation. Then there is the expanding use of the materials safety data sheets [MSDS]. Collective bargaining arrangements also address these issues. We already have an overload of rules, regulations, and legislation in this very area. This bill is not necessary.

We all talk about trying to bring back America's manufacturers, but I must point out that all manufacturing companies are to some extent chemical companies; and there is only so much chemophobia that America's manufacturing firms can submit to without going overseas. Overseas companies, foreign or American will not bear the costs and liability of H.R. 162. When the Augusta Chemical Company was notified by NIOSH that it had to notify, under very rigorous procedures—not at all the procedures of H.R. 162—when they had to notify past workers, there were already new owners of this manufacturing facility. They notified the past workers, and they got 335 million dollars' worth of lawsuits—171 suits were filed—even though the numbers of the bladder cancers were on the order of 10 and 15.

Mr. Chairman, if we are interested in competitiveness, if we do not want to further export our manufacturers, we will vote to defeat H.R. 162.

Mr. GAYDOS. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I want to commend the chairman of this subcommittee, Mr. GAYDOS. In the last several Congresses we have all come a long way in terms of right-to-know policy or risk notification to workers.

Most of us have been in different roles than our present capacities as Members of Congress. One role I had was as a blue collar worker. I look to my family, my brothers and sisters, my father, and what is important in my district for constituents. All of them happen to work in different environments where they are exposed and have been exposed to some serious health hazards and problems. I look at my cousin who is a victim of asbestosis. He was a pipe coverer. I look at this phenomenon and what has happened with him and others that have been exposed to workplace hazards.

The fact is that since my service in Congress, we have as a legislative body done too little to address this concern. Actions in the past decade have been in reality more like sliding backward than moving forward. Oh, we read reports with statistics from OSHA that indicate that there are fewer accidents, but when you have fewer inspections, you find improvement. That is improvement on paper; it is not improvement in reality. This type of analysis is a cruel hoax and an outrage to the workers who are injured or ill from the lack of adequate enforcement of the basic OSHA laws, rules, and regulations.

We have a responsibility to the workers across this country to try to let them know about the hazards in the workplace. Simply put, that is what this legislation does. Some point to the present administration's OSHA notification program. Why do we even have such an OSHA program today? It is because this administration's admin-

istrators were dragged into court and forced to come up with a program. I think putting some meat now on the weak frame of bones, in an attempt to provide some underpinning to a good worker notification is certainly what this 100th Congress should be doing, in essence, to place this program on a track where it is going to function effectively and to do the job that is necessary, and needed and has been sorely lacking. When workers go into the workplace, they should certainly have some basic rights; they have a right to know, of the hazards and risks and that they will receive reasonable notification training for these types of concerns.

If any national administration has demonstrated the necessity of being pushed and prodded and is in need of legislative direction, it is this Reagan administration, the way it has conducted the OSHA program and its reluctance to deal with some of the very issues that affect my brother and sisters, my father, my family, and the people I represent in St. Paul, and in Minnesota, need this legislation and our vote to provide a fair share in the workplace regarding health hazards.

Therefore, Mr. Chairman, I rise in strong support of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987.

H.R. 162 creates a nonpartisan Risk Assessment Board charged with identifying classes of workers who are at risk from occupational disease based on valid clinical studies. Additionally, this measure establishes 10 health centers to provide counseling and care for workers at risk from occupational disease. Finally, H.R. 162 provides for improved training and education for workers who routinely work with hazardous substances on the job.

I have had a longstanding interest in the issue of workers' health and safety. In the 97th Congress and again in the 98th Congress, I introduced legislation to strengthen the OSHA hazard communication standard. This legislation attracted the support of over 50 Members of the House and was also subject of hearings held by the gentleman from Pennsylvania and the sponsor of this measure, Mr. GAYDOS, the chairman of the Education and Labor Subcommittee on Health and Safety. After a long and hard battle and after a favorable court ruling from the U.S. Circuit Court of Appeals, we were able to move OSHA to slightly expand the scope of its hazard communication standard. But more must be done to safeguard the health and safety of this Nation's workers.

The toll to our workers' health and to our economy from occupational disease is staggering. Over 400,000 workers become disabled annually and 100,000 workers die each year from occupational diseases. The human cost for these workers and their families is terribly high. But the cost to our Nation's economy in terms of lost productivity and higher health care costs and insurance premiums is also high.

There are over 55,000 chemicals commonly used in U.S. industries, with another 1,000 new chemicals being introduced into the workplace every year. Only a fraction of these chemicals are regulated by Federal or State standards. A recent report by the congressional Office of Technology Assessment found that more than 80 percent of new chemicals submitted for registration with the Environmental Protection Agency [EPA] lacked information about their potential for causing cancer, birth defects, or genetic mutations. The many unknowns associated with these various chemical compounds and other hazardous substances place our Nation's workers at risk.

Many of the opponents of H.R. 162 have suggested that this measure really isn't necessary. But the facts in America's workplaces say otherwise.

In August 1979, a 24-year-old civil engineer in Canton, OH, was offered 8 hours' work. The job was to pump oil and rainwater out of a shack that had been damaged in a storm. When the young man finished the job, he was soaked through his clothes to his skin. Only then did he learn that the oil was contaminated with PCB's [polychlorinated biphenyls]; one of the most carcinogenic substances known.

In November 1983, a worker at a General Dynamics plant in Michigan died from exposure to toxic vapors. This incident occurred after several other workers at the plant had passed out from similar exposure and after the workers' union filed a complaint with OSHA which was essentially ignored.

Even OSHA has been forced to acknowledge the magnitude of the risk facing Americans on the job. OSHA has estimated that exposure to asbestos of 1 million brake repair workers and 4 million construction workers results in 20 million people at risk from exposure to asbestos. That's 1 out of every 12 Americans. This risk comes because these workers brought asbestos home on their clothing and personal effects.

It is not surprising that the Reagan administration and the Labor Department are opposed to this legislation. In 1984, the administration proposed weakening existing exposure standards for lead and cotton dust, and failed to even set standards for exposure to asbestos and ethylene dibromide [EDB]. Indeed, whenever the question has been whether or not to provide more protection for workers and more information about hazardous substances in the workplace so that workers could protect themselves from adverse risks, the administration has come down on the side of restricting access to the information.

Clearly, the threats facing America's workers are very real. I urge my colleagues to join me in supporting H.R. 162.

Mr. JEFFORDS. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I rise in opposition to H.R. 162 as reported by the Committee on Education and Labor.

I certainly agree with the principle that employees should have access to meaningful information concerning health hazards in their workplace. Workers should be informed as to any potential adverse health effect that a workplace exposure may involve. These goals are already largely being met with respect to the manufacturing sector through a regulation known as the "Hazard Communications Standard" (29 C.F.R. 1910.1200, et seq.), which the Occupational Safety and Health Administration [OSHA] promulgated on May 25, 1986. Further, it is my understanding that OSHA will implement an even more encompassing standard in the very near future. That regulation will cover all remaining employers; that is, those beyond the manufacturing sector already covered, subject to the OSHA statute.

Allow me to summarize the reasons for my opposition to H.R. 162.

First, this legislation will create an unnecessary, overlapping, and costly bureaucracy in the Department of Health and Human Services, to be known as the Risk Assessment Board. This new bureaucracy will have jurisdiction over, and responsibility with respect to, matters that already are largely within the jurisdiction of the Occupational Safety and Health Administration.

Second, the bill will impose notification requirements that are far too broad. Notices will be sent by the new Risk Assessment Board in thousands, and perhaps millions, of instances where there is only a speculative possibility of any real health problem for the persons who will receive the notice. Under the bill's language, the ostensible scientific evidence that will justify and prompt these notices need only show that there "may be" a relationship between a substance the worker was exposed to and a particular disease. Yet, the employees or former employees who receive these notices will rightfully be alarmed, and will perceive them as meaning a genuine possibility of a personal health problem. In my view, occupational disease notices should not be sent in instances where the scientific evidence does not conclusively demonstrate a substantial likelihood or probability of illness on the part of the employee contacted.

Third, the language of H.R. 162 purports to preclude the use of the Board's health risk findings or the fact of notification as evidence in a workmen's compensation claim case or in a lawsuit against an employer. The fact is the language in section 8(b) of this bill contains numerous loopholes that will enable plaintiffs to proceed with such claims and suits following receipt of the notification. Plaintiffs' lawyers will be free to cite the background studies which prompted the Board's decision to issue a notice as well as being free to obtain direct medical testimony which will result from the medical monitoring requirements of the bill.

Finally, this measure will worsen the liability crisis by artificially inflating

workmen's compensation, health insurance, and legal costs for employers. Small companies, in particular, will be very hard hit by these new and onerous Federal requirements. Virtually every employer in the country is covered by the committee bill, no matter how few employees a company may have. In my view, this legislation will create an atmosphere, and provide the tools for, a virtual litigation nightmare.

Mr. Chairman, it is my hope that this House will look carefully at the Henry-Jeffords substitute and recognize that it is a far more preferable way of dealing with this problem. The focus of the Henry-Jeffords substitute is disease prevention. It does not create new legal causes of action nor does it encourage litigation. It has a prospective focus so that employees will be educated and trained about possible health hazards, while employers will be encouraged to identify and eliminate those hazards. The Henry-Jeffords substitute builds upon existing law and regulations, rather than ignoring them. I strongly urge the Members of the House to adopt the Henry-Jeffords substitute when it is considered under the 5-minute rule.

□ 1345

Mr. GAYDOS. Mr. Chairman, I yield 4½ minutes to the gentleman from Pennsylvania [Mr. MURPHY], a member of the committee.

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

Mr. Chairman, I rise today in strong support of H.R. 162 as reported by the Committee on Education and Labor. As a member of the Subcommittee on Health and Safety for the past 10 years, I have become increasingly aware of the need for early notification of increased disease risk because of occupational exposures to toxic substances. This legislation is the product of intensive review and hearings during the past 4 years. The gentleman from Pennsylvania [Mr. GAYDOS], the subcommittee chairman, is to be commended for his hard work, diligence, and commitment to this legislation.

This bill establishes a mechanism for notifying workers who have an increased risk of contracting occupational diseases. The creation of a Risk Assessment Board ensures the use of scientific principles in determining which workplace exposures to substances produce an increased risk of disease. Only through early notification can individuals begin effective medical monitoring and evaluation, which may save lives as well as health costs. In fact, the first priority of the Board is to designate those employee populations most likely to benefit from health counseling or monitoring.

This legislation is not a Pandora's box designed to create mass hysteria among workers or an avalanche of lawsuits. The function of the Risk Assessment Board is to assess the medical literature from which it issues proposed determinations for notification. The notice is subject to public comment and hearing. The Board's order is then subject to judicial review. This is a narrowly and carefully defined process designed to reach those workers most in need of medical monitoring and evaluation.

Furthermore, H.R. 162 addresses the critical need of increased occupational disease research. The best way to reduce disease is through prevention. By building upon existing medical resources throughout the Nation and establishing grants for further research, this legislation promotes awareness of occupational disease in the medical community.

Finally, this bill has gained the support from many quarters. Associations of the paint, chemical, electronics industries support the measure as well as labor, public health, and medical groups. This legislation encourages the early detection of occupational diseases at a low cost which will in turn generate health care savings and ultimately save lives.

I urge my colleagues to support H.R. 162 as reported by the Education and Labor Committee.

Mr. CHAIRMAN. Would the gentleman from Pennsylvania [Mr. GAYDOS], the sponsor and manager of the bill, respond to a few questions?

Mr. GAYDOS. Mr. Chairman, if the gentleman will yield, yes, to a member of the subcommittee.

Mr. MURPHY. How does the bill affect the issue of liability for employers or manufacturers after notification to workers has occurred?

Mr. GAYDOS. I refer the gentleman to section 8(b) of the bill. That section states that the bill is neutral regarding liability issues either in tort or workers' compensation. That is, no action taken under this bill may serve as a basis for any legal or administrative claim. The intent of this legislation is to serve as a public health measure. Let me emphasize that this bill is not a means to expand employers' liability or create new legal rights.

Mr. MURPHY. How does the bill guarantee such a result?

Mr. GAYDOS. Section 8(b) specifically bars from evidence findings of the Risk Assessment Board, evidence that a worker is or is not to receive notification, and evidence that medical monitoring or evaluation is or is not to be initiated.

Mr. MURPHY. I thank my colleague for his response. I would also like to note that the General Accounting Office in May 1987 found that this bill does not change existing laws, which allow workers to sue for damages and file for compensation claims. Examples like the 50,000 asbestos disease claims now in the courts will occur regardless of this legislation. Perhaps this legislation can help reduce or prevent future mass tort actions. This bill is not an expansion of employer or manufacturer liability. Nor is it a back door to tort reform. What this legislation does is create the opportunity where early notification of increased disease risk can prevent costly future litigation. The gentleman is to be commended on this legislation and I urge passage of the bill as reported by the Education and Labor Committee.

Mr. JEFFORDS. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. FAWELL].

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

All too often, this Congress takes a good idea and runs the wrong way with it. The high risk notification bill is another example of Congress allowing a good idea to turn sour.

There is a laudable motive to notifying persons that they may have been exposed to occupational health hazards. To require, however, that hundreds of thousands of individuals be tracked down and personally notified that they are included within a class of persons who may be at risk of serious disease is a dangerous practice and places unmeasurable costs on Government and business. GAO has stated that the cost of giving such specific notices to large numbers of people are "incalculable." By setting up a new "mini-Medicare" system to medically monitor "at risk" persons once they have been notified, guarantees further incalculable and unnecessary costs on both the Government and employers.

H.R. 162 unnecessarily gives incentives to an explosion of tort and/or workman's compensation liabilities against employers, not to mention the potential of unparallel increases of employer tort and workman's compensation insurance premiums. Although proponents argue that this legislation is tort neutral, the claim is not true. The form of notification under H.R. 162 will spawn a multitude of tort and/or workman's compensation compensation claims. Using procedures similar to those being proposed under this bill, NIOSH's notification of 800 Augusta Chemical Co. employees who worked at the plant from 1940–72 and were possibly exposed to the chemical BNA resulted in $335 million in law suits against the company.

In addition to the increased tort and/or workman's compensation liability costs, H.R. 162 also saddles employers with additional statutory liability. These are the so-called musical chair costs. That is, the current employer, at the time the employee asks for medical monitoring, when the

music stops, regardless of whether the employer is responsible for only small traces of the exposure, is liable for the costs of limitless and unknown medical monitoring of the notified employees.

Passing the cost of medical monitoring, which could conceivably last for years, to the current employer if "any part of such exposure occurred in the course of the employee's employment by that employer"—while ignoring years of such exposure in prior employment, is unfair. Thus, the minimill that recently hired a steelworker previously employed at another steel company for 25 years would shoulder the entire burden of the medical monitoring costs, although most of the exposure occurred at the worksite of his previous employer.

The musical chairs liability for the employer does not, however, end with medical monitoring. Injustice is added to injustice by also requiring the current employer to move an exposed employee to a less hazardous job, while maintaining the individual's salary, seniority, and other employment rights, as though the employee had not been transferred to a less hazardous position, or what would normally be a lower-paying job. If the employer cannot provide a less hazardous position, he is required to pay the employee's salary for an additional year.

All of these statutory liabilities are cast upon the current employer without any proof that he was negligent relative to the occupational health hazard exposure or that the alleged occupational health hazard was the proximate cause for any present or future condition of ill-being of the notified employees. And these statutory liabilities will be costly. National Small Business United provides the following hypothetical, yet very realistic, business situation this legislation imposes on employers:

> Based on Department of Labor average hourly manufacturing wage statistics, the medical removal provision of H.R. 162 would cost employers nearly $19,000 per employee, excluding fringe benefits. Thus, in a firm of 100 employees, if 10 persons were required to be provided with another job or given paid leave, replacing those persons would add nearly $190,000 to the payroll of the employer. Few small business owners could cope with such increased costs with the result that jobs, wages, and fringe benefits of other employees would immediately be at risk.

One can only imagine the cost of the job removal protections as they would affect farmers.

Another question needs to be addressed. If Congress is to single out employment-related health hazards as candidates for this type of legislation, along with guaranteed free medical monitoring and job benefits, what about the millions of other Americans who have been exposed to health hazards outside of the work environment? What about special notification to those who have been exposed to improper use of x-rays, to health hazards associated with air, water, and soil pollution, asbestos exposure in the schools, impure food consumption, et cetera? If our regular tort liability system is not good enough for job-related health hazard exposures, why should it suffer for the rest of the population?

H.R. 162 creates more problems than it solves, takes the most expensive route, and imposes unnecessary costs on government and unfair liabilities on employers, particularly current employers. At the same time, the legislation does not address safety in the workplace—that is, the prevention of hazardous exposures in the first place.

I urge my colleagues to vote against this legislation, which appears on the surface to be commendable but is actually ill-conceived.

Mr. GAYDOS. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

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

Mr. Chairman, I, too, rise in strong support of the High Risk Occupational Disease Notification and Prevention Act, and I do so coming from an area that is directly affected in every possible way by this piece of legislation in Kanawha Valley in West Virginia.

We are proud of our chemical industry and proud of the thousands of people who make their living there, and proud of the efforts that we have made to make sure it is a safe and productive area to work.

I rise in support of this, because I know that this meets another concern. It meets a concern of safety, and a concern that many have as they work with chemicals.

What does this bill do? It creates a nine-member Risk Assessment Board; and that Risk Assessment Board goes and identifies clinical and epidemiological studies for "statistically significant," and I use those words and underline them, "statistically significant" evidence that hazardous substances in workplaces are associated with certain chronic health effects, and having determined that, that they notify those people. Is that too much to ask?

Are we asking people to work in potentially unsafe areas, and saying we are not even warning you that we have detected that there is something that is statistically significant, that you ought to know about; and it only warns them.

This does not add to the litigation of the chemical industry or to the liability of the chemical industry. It specifically excludes increased liability or increased litigation.

Indeed it will probably over the long haul reduce costs and litigation and liability.

The technology is now available to do this kind of monitoring; and I hope, Mr. Chairman, in a civilized society, I hope we are not trying to send a message that a person who may have been exposed to hazardous chemicals, that once again can cause chronic health effects, should not be warned.

Happily, the chemical industry in my area is supporting this bill, and those who work in the industry are supporting this bill; and it is not too much to ask that we support this bill also.

Mr. JEFFORDS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

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

Listening to the debate today, one would think that the companies in America were absolutely inclined to put all their employees at risk and place them in dangerous situations.

I am the owner of a small pest control company—a company that puts my employees in hazardous conditions on a daily basis.

My employees hold and handle pesticides every single day at work, and, like any good employer, we protect them. My company doesn't need a Federal mandate. I make sure that through proper education and training, they stay abreast of the possible hazards of working with toxic chemicals. Once a month we go through a training process of how to handle pesticides and how to prevent any potential hazards. My company is small—roughly 16 to 20 employees at any given time—with annual gross sales of about $1 million per year.

What this bill will do is significantly raise my cost of doing business. As a result of this bill my costs will be about $80,000. That's $20,000 more than my profits of last year. Without profits, I either have to close my business or raise my prices to consumers—which means I am less competitive in the market. Because the costs of doing business affects small businesses more than large corporations, this legislation keeps me from growing and competing with the large businesses—which explains why some large corporations are for this bill.

This is a poorly conceived bill which will seriously damage our Nation's competitive posture.

Mr. JEFFORDS. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LUNGREN].

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

Mr. Chairman, I come from a part of California which has suffered from occupational diseases in the past. I have one of the major naval shipyards in my district and a number of people

who have suffered from exposure to asbestos over the last number of years.

I certainly have a concern for those people, and I have a concern that continues for those working in my district in other occupations as well.

Yet, my background before I came to Congress was as a practicing attorney, a trial attorney.

I have seen the tort system, the litigation system in this country at both the Federal and local level.

If I might just say after observing this bill, I cannot think of a bill which would do more for the employment of trial attorneys in America, both for plaintiffs and defendants, than this bill. I know that is not the intention.

I am sure that the gentleman who is the author of this bill thought it was, or that he would make every effort to get rid of it; but nonetheless, I think that is the practical effect.

There is a section 8(B) that he refers to which he believes makes this tort neutral. I just must say that in reviewing it, that is not the case. This is ripe for explosion of litigation in Federal and State courts, and that is not going to help, frankly, our workers one bit.

The standard that is talked about here; that is, that people be notified that they may have been exposed to substances which may cause or be connected with occupational diseases, that is about two or three levels away from something which does definitely cause some problem.

Yet, these people are going to be notified under the aegis of the Federal Government that they have exposure. Couple that with things such as brochures that go out now entitled "Find Out How To Take Your Occupational Disease Claim To Court" and also the way attorneys now advertise on television.

We have seen them standing next to a motorcycle saying, "Just because you have had an accident on a motorcycle doesn't mean that you were at fault." We have all seen those ads.

What I am saying is, it is ripe for litigation explosion to do very little to help the people we want to help, but yet cause a further denial of justice, a further clogging of our courts, and for what? For very little gain for the individuals involved.

H.R. 162 may have good intentions, but the impact from it is going to be very little for those employees, additional stress, lawsuits; and finally there will be extreme dissatisfaction among the public.

One of the things that that is going to entail, in addition to the impact on the employees, is the impact on the companies they work for and a possibility of jobs.

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Little have we remarked that in this last 12 years we have produced a 26-percent increase in jobs in America, while that great competitor everybody likes to talk about, Japan, has only had an increase of 12 percent.

We, if we work very hard at it in this Congress, can make sure that we turn that around and we can follow the European experience and make sure we do not increase jobs. I am sure that is not our intent, but we have to look at legislation. If legislation is drawn in such a way that it complicates problems, it causes more expense, it does not help the employees, but in fact just increases litigation, it does us no good.

Mr. Chairman, I would ask for a "no" vote on H.R. 162.

Mr. GAYDOS. Mr. Chairman I yield 1½ minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I strongly support this bill because workers have a right to know if there is anything they can do to prevent premature disability and death that is caused by workplace exposure to hazardous substances.

Many of the critics of this bill say that it will not prevent disease but this is not true. Public health professionals recognize several types of prevention, and education and medical monitoring in cases where there may be increased risk for disease is definitely considered a preventive effort.

Medical monitoring can show that a worker is beginning to have some physical damage long before the actual onset of disease. A prime example would be workers who are at risk for lung disease because of occupational exposure.

For these workers medical monitoring could show decreased pulmonary function before the onset of disease. Preventing further exposure would not only prevent disease but would prevent a future workman's compensation claim, something in which we should be very interested.

We need all types of prevention. Obviously, prevention of the initial exposure is necessary and OSHA if it is doing its job is engaging in primary prevention. But for workers who have already been exposed we need the next level of prevention. H.R. 162 is a first step in that prevention effort and I strongly urge you to support this bill.

Mr. Chairman, I stand here thinking about us as a country, the money we spend on occupational safety. This is a step in the right direction and I think it is terribly important for us to do the right thing today.

Mr. JEFFORDS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I rise to strongly oppose the passage of H.R. 162, but more to the point and for the point of the vote we will take this afternoon, to urge Members of this House to support actively and to vote for the Jeffords-Henry substitute which will be offered early on. I urge a vote for the Jeffords-Henry substitute. Here are a few facts and points on that.

First of all, the Jeffords-Henry substitute is the vote. It is the only real vote, the vote that will count. If the Jeffords-Henry substitute were to fail, and it seems to me it is very close and well could pass, if it could pass then we could go home. No other amendment would be necessary. If it were to fail, then there would be a whole series of other amendments on other subjects and on other topics, but there is only one way to get at the fundamental problem of this bill and that is with the Jeffords-Henry substitute; so whether it is on final passage or amendments, the only vote that counts is a vote for the Jeffords-Henry substitute.

For all those who have doubts, Mr. Chairman, about H.R. 162, and there are a majority of the Members of Congress who do, for all those who have doubts about this new approach that H.R. 162 is taking in a radical new direction, I would urge them to vote yes on the Jeffords-Henry substitute.

Second, H.R. 162 and the Jeffords-Henry substitute approach the problem with two exactly different and opposite approaches. H.R. 162 uses a statistical approach. It says that if we have a statistical study in which there is a whole population of workers that have a statistically higher incidence of a particular kind of disease, then all of those workers have to be notified that they are somehow at risk of that disease and that notification then goes to everyone, whether or not they are indeed at risk of obtaining that disease.

Now, what that means is that if there is a statistically higher incidence of skin cancer among construction workers, then all construction workers are notified as to that so-called risk. If there is a statistically higher incidence of another kind of disease among farm workers or agricultural workers or office workers, then they are notified also.

Now, the Jeffords-Henry substitute takes a different approach. The Jeffords-Henry substitute would notify individual workers in populations when those workers are in fact at risk of a specific hazard. It would notify them during and before the hazard and notify that worker on how to protect himself or herself from that specific hazard. It codifies and improves upon the current but the new OSHA standards that just began within the last 2 months.

The result of the bill the way it is proposed would be a notification to millions, if not tens of millions over time, of workers who are not at risk of anything, but they are in a population

with a statistical incidence, with no corresponding increase in hazard protection.

The result, on the other hand, of the Jeffords-Henry substitute is an increase in hazard protection.

Mr. GAYDOS. Mr. Chairman, I yield myself the remaining time.

Let me very hurriedly make reference to some of the amendments that will be offered or are intended to be offered if an opportunity presents itself.

The bill, H.R. 162, in its present form has been under study by the committee and these amendments at the request and following the usual procedure, we have been very sensitive and responsive to requests and these amendments have already been approved by the committee chairmen and we would join with the requested amendments.

One amendent would be to allow individual companies to apply for an exemption from the high risk notification process.

Another amendment would be to have strengthened requirements for the medical removal provisions of the bill.

Another amendment would provide legal protection against malpractice for doctors who make a good faith determination that a worker should be removed or transferred in his job.

Another amendment which we would submit would be pointed toward duplicating medical monitoring programs that are in existence in other agencies.

Another amendment would be the Risk Assessment Board which would have the ability to limit notification to the period of latency associated with the disease.

There are several technical amendments. We have two amendments that are agreed to and would be sponsored by the gentlewoman from Maryland involving exemptions for small businesses with 15 or fewer full-time employees from the medical removal provisions of the bill, and also an amendment that will be sponsored by the gentleman from North Carolina [Mr. ROSE], where seasonal agricultural workers would be exempt from the medical removal provisions of the bill as long as they have not worked for the same employer continuously for six months.

Now, these amendments will strengthen the bill. We feel they are amendments that the majority would support.

Mr. Chairman, let me say this in closing, if I may. Many statements were made on the floor of the House in what H.R. 162 does or does not do. I heard one of our colleagues over there state that one of his employees got removed from a particular job because he was exposed to some substance or process or chemical or an agent, that he would be losing $40,000 a year, or $20,000 a year.

The bill is very, very specific. If you are exposed or transferred and you do not have a job, your workman's compensation is reduced and deducted from anything that you would be making or not making or changing to another job or being removed from your particular job.

Mr. RODINO. Mr. Chairman, I rise today to lend my full support for H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987 and to urge my colleagues to reject the Jeffords-Henry substitute.

One only has to study the statistics associated with occupational mortality and disease rates to determine the need for this legislation. Every year it is estimated that 11 million American workers come into contact with known or suspected toxins in their place of work. Of that number, it is believed that approximately 100,000 will die and 350,000 will become disabled. According to a Labor Department study, the cost of these fatalities and disabilities to the American taxpayer through Social Security, Medicare, and Medicaid is $5½ billion annually.

However, as is so often the case, statistics only tell a part of the story because there is no way to quantify the real life experience of people. I have received a great deal of material in support and in opposition of H.R. 162. Among the statistics, impact studies, opinions and articles I have come across real-life accounts of people who loved and devoted a lifetime to their work. These accounts included teachers, firefighters, and policemen, to name just a few of the job classifications that were brought to my attention in support of this bill.

What especially impressed me was that these people did not have regrets about their chosen occupation nor did they feel ill-will toward their employers. They were simply saddened that their occupations brought them into contact, unbeknownst to them, with materials that eventually made them very sick and they felt that it was time for there to be a coherent national policy to deal with this problem. I agree and that is why I am a cosponsor of this bill.

I believe that H.R. 162 goes a long way toward realizing this goal. This bill calls for the creation of a Federal Risk Assessment Board which would notify workers of the risk of occupationally related disease and would counsel and inform them of medical surveillance programs specific to their risk category. H.R. 162 also provides for ongoing monitoring of workers whose jobs expose them to hazardous substances. Finally, this legislation provides for a national research and educational effort to learn more about the dangerousness and effects of the innumerable substances with which American workers come into contact.

H.R. 162 is not antibusiness or fiscally irresponsible. One only has to look at the list of the corporations who are on record as in favor of this bill to realize that it is not designed to blame American business for occupational diseases. In fact, H.R. 162 is totally neutral on the issue of liability. Moreover, at a cost of only $25 million per annum, it will more than pay for itself in savings in Medicare, Medicaid, and Social Security payments.

Mr. Chairman, I urge the passage of H.R. 162.

Mr. RAHALL. Mr. Chairman, I rise in strong support of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act, and would like to commend the chairman of the Committee on Education and Labor for bringing this much needed legislation before us today.

While there is much controversy surrounding H.R. 162, in view of the fact that approximately 100,000 workers die and some 340,000 more are disabled each year from occupational diseases caused by exposure to the toxic substances in commercial and industrial use, I believe that we would be derelict in our duty to the working men and women of this country if we did not pass this legislation. This is especially true because effective treatment of diseases resulting from exposure to hazardous materials depends on early detection and treatment and because presently, Federal regulations do not require employers to inform workers of their risk of disease from exposure to specific substances.

H.R. 162 provides for the scientific identification of those workers with a high risk of developing fatal or disabling occupational diseases, the notification of these workers and the subsequent monitoring for such diseases. These procedures will help to ensure the early detection of occupational diseases and, in turn, will permit the most effective medical treatment for those affected. Additionally, they will encourage changes in affected workers' lifestyles that might further reduce the likelihood or severity of disabilities. Provisions of H.R. 162 will also facilitate the establishment of advanced warning systems for workers and will encourage workers to avoid exposure to dangerous levels of hazardous substances.

Many have expressed concerns in regard to the costs of this legislation which authorizes a modest $25 million per year for its program. However, at this point in time, businesses lose between $1.7 billion and $4.3 billion because of occupational disease. The Federal Government now spends approximately $5.4 billion per year for occupational diseases under Social Security Disability Income, Supplemental Security Income, Medicaid and Medicare. If enactment of the bill results in only a small reduction in disease resulting from occupational hazards, the bill will more than pay for itself. In regard to costs that might be incurred by employers, many of the costs required under the bill are already incurred by employers in complying with existing OSHA requirements.

Finally, opponents of H.R. 162 argue that the bill will result in huge litigation costs for employers because of emotional stress liability suits brought as a result of the risk notification program. That is not the case because the bill specifically prohibits the use of determinations or actions under the bill as a basis for compensation, loss or damage claims.

To reiterate, I strongly support enactment of H.R. 162 and urge my colleagues to support this worthwhile and much needed legislation.

Mr. BUNNING. Mr. Chairman, I rise in strong opposition to the risk notification bill, H.R. 162.

The whole thing is ridiculous. The best the proponents can say about this bill is that it won't cost the Federal Government too much. It won't increase lawsuits too much. It won't cost employers too much.

I think the evidence is pretty strong that they are underestimating the costs. But even if they are right about the price tag, even if it will only cost the Federal Government $25 million a year, even if it only results in a small increase in lawsuits and even if it only puts a few small businesses out of business or makes a few large businesses less competitive, that price tag is too high for the simple reason that we don't need it.

This type of after-the-fact concern about workers' health is not an improvement. We should be trying to prevent work related illness not sending the problem to the courts.

We already have the OSHA hazard communication standards. If they need improving, let's improve them. If we need to spend more money to make workplaces safer, let's spend it but we cannot afford to set up another duplicate structure of regulations and redtape.

No, it might not be terribly costly by Government standards. And it might not be terribly big by Government standards. But something doesn't have to be big to be a monstrosity. And that is what this bill is.

I urge my colleagues to vote against it.

Mr. BURTON of Indiana. Mr. Chairman, I am here today to voice my strong opposition to H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987.

I believe that H.R. 162 unnecessarily duplicates presently existing Federal regulations regarding the evaluation of high risks in the workplace and notification of workers. OSHA has an effective hazard regulation standard that requires the notification to employees of hazards in the workplace and requires that workers be trained in handling those hazards.

Furthermore, H.R. 162 would impose enormous costs on employers, consumers, workers, and the Federal Government. The authorization level of $25 million is unrealistically low. Also, if H.R. 162 passes there will be an exponential increase in litigation as a result of widespread notification.

H.R. 162 is anticompetitive, antibusiness and antigrowth legislation. It will hurt America's businesses and farmers, and ultimately, America's workers.

H.R. 162 spells bad news for our Nation's farming community because of the chemicals and substances used in modern farming. The liability claims that would result, the cost of job transfers, the cost of medical monitoring and the impossibility of notifying hundreds of former seasonal workers would force many farmers out of work.

Likewise, H.R. 162 would adversely affect industry productivity and job opportunities, particularly for small businesses. The weight of the incalculable expense of the notification and monitoring requirements of H.R. 162 will drive some businesses to close their doors. The added weight of having to defend against millions and perhaps billions of dollars in lawsuits could close otherwise healthy businesses. Businesses that do survive can be expected to pass these enormous costs to the consumer.

The cost of H.R. 162 is just to much for most of America's small businesses. According to conservative estimates, H.R. 162 would add between a 4.2- to 8.1-increase to a small company's costs. Thus sum is devastating when it is realized that the average profit margin for a small business is between 2 and 3 percent.

I do not believe that H.R. 162 is in America's best interests. Federal efforts in this area would be better spent by improving and strengthening ongoing occupational health activities under existing statutory and regulatory authority rather than creating new governmental authorities.

Mr. ACKERMAN. Mr. Chairman, I rise in strong support of the legislation before us which, if enacted, will help protect the health and safety of working men and women. According to Government estimates, each year some 100,000 American workers die, and 400,000 become newly disabled from diseases caused by workplace exposure to toxic substances. Unfortunately, workers exposed to these hazardous substances on the job are seldom advised of the risks they face.

A great deal of this illness and death can be avoided if workers receive critical medical information needed to protect themselves. Since occupational diseases generally have long latency periods, it is often possible to prevent or successfully treat the disease through early medical intervention or counseling on personal health habits. That is why I became a cosponsor of the High Risk Occupational Disease Notification and Prevention Act in the 99th Congress, and why I am once again cosponsoring this proposal designed to save lives and money.

H.R. 162 would establish a scientifically and medically sound basis to promote the early detection and prevention of occupational disease. The bill would establish a Federal Risk Assessment Board to review scientific and medical studies and to identify and notify populations of workers who have at least a 30 percent greater-than-normal chance of incurring disease from employment exposure. In addition, the bill would authorize the cerfification of occupational and environmental health centers, provide for ongoing medical surveillance of high risk workers and improved medical surveillance for employees exposed to occupational hazards. Finally, the bill would establish protections for workers against discrimination on the basis of their identification and notification of occupational disease risk.

This proposal will not only save lives, it will help reduce the staggering costs of occupational illness to our Nation. According to a cost analysis prepared by the National Institute for Occupational Safety and Health, the annual cost to the Federal Government for administering the legislation would be between $19.8 million and $26.4 million, depending on the number of workers who request testing. Currently, occupational disease is estimated to cost the Federal Government $5.4 billion annually. Likewise, the annual cost of occupational disease in medical and wage loss costs to businesses is estimated to range from $1.7 to $4.3 billion. The legislation is expected to lower that cost to between $3 and $38 million in medical monitoring.

H.R. 162 would prevent many deaths and disabilities by changing the use and handling of toxic and hazardous substances. I urge my colleagues to support passage of this vital legislation.

Mr. COMBEST. Mr. Chairman, today the House is considering legislation that would have a profound impact on this country's farms and small businesses. H.R. 162, the High Risk Occupational Disease Notification and Prevention Act, would require all employers to notify past and present employees if they had been exposed to a hazardous substance. While I support some programs to notify workers of hazards in the workplace, this legislation steps beyond the bounds of reason.

Simply put, this legislation would have a devastating effect on the farming community. Agricultural production requires the use of certain chemicals and substances that are potentially harmful to the workers using them. If H.R. 162 becomes law, farmers will have to notify anyone that worked for them who was exposed to these chemicals and provide them with medical monitoring. If a doctor determines that an employee's health could be adversely affected by continuing in their present occupation, the employer would either have to transfer them to another position that has no risk of exposure or provide them with a year's salary.

All farmers will feel the effect of this legislation. Not only would they be responsible for present employees, but they would also be required to notify past employees. How does a farmer notify the large number of seasonal employees that have worked for him over the years? This legislation does not say, but failure to notify them could lead to a heavy fine. Government intervention, the weather, and the agricultural policies of our trading partners have been hard enough on our farmers; let's not add an additional burden in the form of H.R. 162.

Farmers would not suffer alone under this legislation. Small businesses across the country would also feel the bill's impact. Very few small businessmen could afford to pay for the additional medical monitoring and medical transfer provisions included in this bill. This Nation relies on its small businesses for economic growth and high levels of employment. It makes very little sense to increase the burdens on small businesses by passing H.R. 162.

I ask my colleagues to join me in aggressively opposing this legislation. Vote against this bill and vote for this Nation's farmers and small businessmen.

Mr. BROWN of California. Mr. Chairman, I rise today in support of the High Risk Occupational Disease Notification Act (H.R. 162).

If signed into law, the act would authorize a new $25 million program withing the Department of Health and Human Services. The measure would create a Risk Assessment Board that would review scientific studies to determine which jobs expose workers to hazardous substances that might result in such occupational diseases as heart and respiratory illnesses, and lung, prostate, bladder, and brain cancers. Another important feature of the bill is a $2 to $4 million allocation for

grants to medical and nursing schools, to encourage the establishment of occupational medicine and health courses.

Each year, 100,000 workers die and as many as 400,000 more are newly disabled as a result of occupational diseases. H.R. 162 provides a low-cost mechanism to identify, notify, and monitor workers whose health is at risk from exposure to hazardous substances in the workplace. The act will save both lives and money and is a carefully negotiated compromise between the bill's sponsor, Representative GAYDOS, and various business, labor, public health, and environmental groups. In fact, at $25 million a year, the cost of the new notification program would be minimal compared to the $3 billion to $5 billion a year that occupational diseases are estimated to cost Social Security, Medicare, and Medicaid. I fail to see how we can deny such important protection to our Nation's workers.

Fairness dictates that our workers should not only be informed by right-to-know laws about the identity of toxic substances to which they are exposed, but should also be informed about their health status. Such information is critical if workers are to be able to seek help for and prevent future harmful exposures.

Opponents of the measure argue that the act would duplicate existing regulatory and corporate procedures, particularly at the Occupational Safety and Health Administration [OSHA]. While OSHA does provide warning labels and notices for hazardous substances in the workplace, and does attempt to improve worker training and knowledge in the handling of hazardous substances, it neither notifies former workers nor includes medical monitoring and personalized risk notifications about specific exposures to those former and current workers.

Because of the controversy this bill has stirred up, with its critics holding OSHA up as a source of adequate worker protection, I feel any discussion must include a look at how OSHA is now doing. It is telling that the new risk assessment board would be located within the National Institute for Occupational Safety and Health [NIOSH]. NIOSH, not OSHA, was picked by Congress because it has a better knowledge base. Dr. Donald Miller, Director of NIOSH, has testified that the new program is "medically sound and scientifically workable." In addition, under its provisions. NIOSH could notify up to 300,000 workers in the first year.

Recently, OSHA has made headlines by slapping large, six-figure fines on corporations such as Chrysler, Ford, and Union Carbide. But most of these high profile fines have not involved unsafe workplace conditions or job safety violations, but poor recordkeeping. Poor paperwork is hardly the stuff that makes the workplace more dangerous for employees. Conversely, the agency's preoccupation with correcting recordkeeping violations will hardly improve the safety of workers.

Recent reports about OSHA have detailed a disturbing—even frightening—lack of management and attention to true health and safety measures. OSHA has never had a strong history of organization. From its establishment in 1970, the agency has been consistently underfunded, understaffed, and confused about its mission. The recent lack of organization and focus on recordkeeping is a direct result of the Reagan administration's efforts to weaken safety enforcement. I think we can congratulate them on a job well done: Over the last 7 years, the administration has succeeded in defanging an already weak watchdog agency, leaving a completely toothless OSHA, adrift and overwhelmed by its task. From his first year in office, President Reagan attacked OSHA for burdening companies with overly technical regulations and slashed the agency's budget. In addition, OSHA rules were modified to exempt many employers from exemptions.

When OSHA was first established, in 1970, Congress declared a series of voluntary industry standards as the law. Many industry associations have since voluntarily updated their standards, but OSHA rules have lagged behind, completing only 18 health and 23 safety standards in its entire history. One study estimates that 1 million workers are exposed to chemicals in amounts that exceed the level now accepted as safe by the industry groups. After 17 years on the job, the agency has yet to figure out how to control a great number of hazardous substances. The same holds for curbing accidents. Other studies show that OSHA never even finds out about many of the accidents that result in death on the job. Employers are required to report such accidents, but, with its small staff and new exemptions, the agency has no mechanism to ensure compliance and rarely holds responsible those companies that fail to comply.

Recent articles in the New York Times and the Washington Post report that when OSHA does decide to act, it does so with "painful" slowness, and does not even keep close track of accidents that kill workers on the job. Simply put, the agency is not functioning. Behind all these claims lie some grim statistics: The number of inspectors is down this year, from 1,328 in 1980 to 1,044. More time is being spent checking records, up 4,619 in 1986 from 0 in 1980. By 1984, after 3 years of what the union's called OSHA's "nice guy" approach to workplace safety, the rate of work-related injuries and illnesses jumped to 8 from 7.6 for every previous worker, the largest 1-year increase in OSHA's history. The numbers have kept increasing, and some experts predict another jump when figures for 1986 are released this fall.

The agency has not only failed to move on enforcement of existing regulations, but has almost completely halted development of new ones. While OSHA remains at a standstill, industry continues to come up with new technologies, procedures, and chemicals. We should be developing new safety standards for these newly emerging workplace hazards. We cannot stand idly by and risk the safety of countless workers in the 5 million workplaces around the country simply because OSHA has succumbed to regulatory gridlock and confusion about its mission. OSHA is incapable of mounting a more than half-hearted approach to monitoring these workplaces.

This statement is not intended as an attack on OSHA. It is intended to demonstrate the tremendous gap created by the agency's impotence and the equally tremendous need for legislation to ensure worker health and safety. The new legislation will not bring us to new, higher levels of safety. Rather, it will help bring us back to where we were before the Reagan administration extracted the few remaining teeth from this important watchdog. How can anyone argue with that? If we vote against this measure, we will send a message to the tens of millions of workers who daily are exposed to toxic and hazardous substances, that we don't care. We do care, and we should do more than talk or leave regulations in the hands of an agency that is unwilling and unable to enforce these regulations.

I urge my colleagues to support H.R. 162.

Mr. KILDEE. Mr. Chairman, I rise in strong support of H.R. 162, the High Risk Disease Notification and Prevention Act of 1987. Let me commend Representative GAYDOS for his tireless efforts to improve and win support for this important bill.

H.R. 162 is a compromise piece of worker health legislation whose emphasis is preventative medicine. The measure recognizes the value of detecting and treating diseases before they are advanced, and establishes a program to identify and notify Americans at risk of developing occupational illness because of their exposure to hazardous substances.

H.R. 162 creates a Risk Assessment Board within the Department of Health and Human Services [HSS] to identify specific groups of workers at risk for occupational diseases. Based on this information, the National Institute for Occupational Safety and Health would be charged with notifying workers in the populations identified as at risk. Identified workers would receive information concerning the diseases associated with the toxic substances, and about counseling and medical monitoring programs. H.R. 162 also ensures that a notified worker could be removed from a position involving hazardous substances, after a consultation with the worker's physician and the employer's medical representative. Under the legislation, the worker would be transferred to another position without loss of salary, seniority, or other benefits.

Each year, approximately 100,000 workers die and 340,000 are disabled by their exposure to toxic chemicals and other on-the-job hazards. Unfortunately, we are all to familiar with the crippling experiences of workers exposed to asbestos, vinyl chloride, and coke ovens. According to various estimates, the yearly cost of occupational illness is at least $7 to $10 billion. The Federal Government alone spends $5 billion for disability and health benefits. By contrast, at $25 million annually, H.R. 162 is a cost-effective bill that will save lives and reduce Government expenditures.

H.R. 162 is a medically and fiscally sound bill which begins to repay the debt we owe to American workers killed or maimed by exposure to hazardous substances. A significant health measure, H.R. 162 will prevent disease in some cases, and arrest other illnesses in the beginning stages where treatment is most profitable. Most of all, the measure deals honestly with our American workers by informing them of possible on-the-job hazards and the steps they may take to prevent or handle their consequences.

I urge my colleagues to support this critically important measure.

Mr. MARLENEE. Mr. Chairman, I rise in strong opposition to H.R. 162, the High Risk Occupational Disease Notification Act. The system of broad individual risk notification and monitoring envisioned by this bill is unnecessary, costly to taxpayers, businesses, and farmers, and will result in an explosion of worker anxiety and liability lawsuits. It will be a further blow to American competitiveness both at home and abroad. It poses the greatest dangers to American agriculture.

First, this bill will result in unnecessary duplication. OSHA, MSHA, EPA, and the National Institute for Occupational Safety and Health [NIOSH] currently have an expansive program for regulation, communication, and training in the area of hazardous materials. These programs are already addressing the root of the occupational exposure problem—the training and education of workers before exposures can occur.

Second, this bill virtually guarantees increased litigation and liability at a time when employers and others in this country are already caught in a rising tide of liability. A finding by an official agency of the Federal Government that those who work in a particular occupation are members of a "population at risk" would carry considerable weight in compensation proceedings and third party liability litigation. Workers compensation coverage will inevitably become a part of employer liability under this bill.

We should ask, which work populations will be found at risk under this bill? According to the Department of Agriculture, working in sunlight could be designated a high risk occupation due to the higher incidents of skin cancer associated with working outdoors. Does this House want to subject farmers, construction firms, and other firms to the onerous burden of finding and notifying present and past employees to inform them of their dangerous exposure to the Sun? This is ridiculous.

Mr. Chairman, based on a study by NIOSH it has been estimated that every notified worker in a targeted industry could represent $375,000 in liability exposure.

Third, the higher business operating costs will result in fewer jobs for American workers. It is ironic that the authors of this legislation claim to be protecting workers, when in fact they would take jobs away from American working men and women.

To get a clearer view of how this bill would affect agriculture, lets look at the plight of a small, country grain elevator. Because all aspects of the grain industry are closely regulated by OSHA, EPA, and the FDA, it will be one of the first industries reviewed if H.R. 162 becomes law.

Faced with an exhorbitant liability exposure under this bill, a country elevator operator would have two options. First, the operator could shoulder the potential liability in-house. A typical operation has between 5 and 15 employees on an annual basis, and over 30 years, as the bill calls for, this could total over 100 employees counting seasonal help, a potential $375 million liability.

The second option would be to secure liability insurance. As we all know, insurance is difficult to get and can have a prohibitive cost in areas with great unknown liability. The enactment of this bill will make the situation many times worse, and there can be no doubt that many country grain elevators will be forced out of business. Mr. Chairman, imagine the impact on our rural communities if this bill becomes law.

Grain elevators, ag chemical plants, slaughter plants, farmers and ranchers themselves—all would be affected by H.R. 162. No wonder this bill is opposed by the American Farm Bureau, the National Wheatgrowers, the National Corngrowers, the American Soybean Association, the National Cattlemens Association, the National Pork Producers, the National Council of Agricultural Employers, the United Fresh Fruit & Vegetable Association, and the National Wool Growers. And of course the impact of this bill effects not just agriculture, but all industries in the United States.

Mr. Chairman, I urge my colleagues to reject this dangerous legislation.

Mr. FRENZEL. Mr. Chairman, nearly everyone agrees that prevention of occupational hazards is both a worthy goal and a high priority. I surely do.

American occupational safety laws and regulations are not perfect. They do need regular review and regular overhaul. This House and this Congress has already evidenced its willingness to make needed changes. So has the Reagan administration.

Why then all the controversy over H.R. 162, euphemistically titled the High Risk Occupational Hazard Notification and Prevention Act? The answer is simple. H.R. 162 is all notification and no prevention.

The broad notification provisions would seem to provide an invitation to wholesale litigation by notified employees. The one test of comprehensive notification produced a staggering lawsuit total of $350 million from an 800-employee universe. A comparison of employees suggests that H.R. 162 might evoke $30 billion in lawsuits.

Such lawsuits don't prevent hazards. Mostly they benefit lawyers, and put future job development at risk.

Further, all employees possibly affected must be notified. When an ex-employee has moved several times, that person becomes very expensive, or even impossible to locate and notify. The law doesn't care if it's difficult or costly. It says to keep on looking.

The law also says that big and little businesses must do the same things. Small businesses with as few as 16 employees must perform the same notifications as IBM or AT&T. In the most recent White House Small Business Conference, the prime request was for the Federal Government to stop mandating extra costs for small business persons.

Fortunately, the House does have an alternative. The Henry-Jeffords amendment really deals with prevention. It requires monitoring recommendations, employee training and retraining, notification on a reasonable basis of risk, and penalties.

Proof of its serious intention is the fact that it carries an OSHA authorization of $25 million.

H.R. 162 is an exercise in symbolism, litigation, and extra cost not commensurate with results. The Henry-Jeffords amendment expands protection, does not preempt tougher State standards, and does not create new liability exposures for large and small businesses.

I shall vote against H.R. 162, and in favor of the Henry-Jeffords amendments.

Mr. DOWNEY of New York. Mr. Chairman, I want to express my strong support for H.R. 162, the High Risk Occupational Disease Notification and Prevention Act.

Every day, workers across this country are exposed to thousands of toxic substances at their jobs. These dangerous chemicals can lead to fatal or disabling diseases after prolonged exposure. In fact, 100,000 workers die and 240,000 more are disabled every year from exposure to toxic substances at the workplace. Sadly, many of these workers do not know of the risks they face because they are never told.

Employees should know the risks they face at their jobs. It is important for them to know of the illnesses that may result from their occupational exposures. The long periods of many occupational diseases often make prevention of successful treatment possible through early medical intervention.

H.R. 162 would promote the early detection and prevention of occupational diseases by identifying hazardous substances and notifying, monitoring, and counseling workers who have been exposed to them. It makes sound public health policy and that is why I urge my colleagues to support it.

Mr. GALLEGLY. Mr. Chairman, I rise in strong opposition to H.R. 162, the High Risk Occupational Disease Notification and Prevention Act.

I am sure I am not alone in my receipt of numerous letters and telegrams from businesses of all sizes requesting my opposition to this costly and burdensome legislation. By creating a new and unnecessary bureaucracy—a Risk Assessment Board—and mandating new employer funded medical benefits, H.R. 162 is yet another effort by the antibusiness community to stifle American business.

H.R. 162 goes far beyond a simple risk notification bill by requiring employer paid medical monitoring of current employees who receive a risk notification, as well as requiring that an employee be transferred to a less hazardous job or even be guaranteed an income by an employer for up to 1 year if no transfer opportunities exist. Especially for small businesses, which do not have the wide range of opportunities that large corporations have, this cost could be devastating.

I am also concerned about this legislation's inestimable impact on tort liability and workers' compensation costs. No one really knows what this impact will be. However, claims for stress-related injury, already the fastest type of workers' compensation claim, can be expected to increase exponentially once a worker receives notice indicating that he or she is at risk.

The combination of new liability and workers' compensation claims, increased insurance premiums, medical monitoring costs, and mandatory salary and benefits continuance, could cost business billions of dollars. This necessitates my voting against H.R. 162. I believe that these increased costs will under-

mine businesses' efforts to be competitive and will fail to prevent occupational disease.

The future of our economy lies in a healthy and prosperous business community. Allowing businesses to grow and prosper, unencumbered by excessive regulations, will help to create better jobs and increase competition. H.R. 162 is another in a series of antibusiness/anticompetitive bills which is antithetical to this notion, and I urge my colleagues to join me in opposing this legislation.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered as an original bill for the purpose of amendment and each section shall be considered as having been read.

The Clerk will designate section 1.

Mr. GAYDOS. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

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

Mr. JEFFORDS. Reserving the right to object, Mr. Chairman, and I shall object, I just want to explain that I think it would be a much more orderly process if we were to take this section by section.

Therefore, Mr. Chairman, I do object.

The CHAIRMAN. Objection is heard.

The Clerk will designate section 1.

The text of section 1 is as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Risk Occupational Disease Notification and Prevention Act of 1987".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. JEFFORDS: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Occupational Disease Prevention Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

The Congress finds that—

(1) potentially harmful substances and physical agents are in wide industrial and commercial use in the United States;

(2) workers may suffer disability or death or both from occupational diseases caused by hazardous occupational exposures;

(3) protecting occupational safety and health facilitates interstate commerce and promotes the general welfare;

(4) early notification of exposure to harmful substances and physical agents often permits medical intervention in the biological process of disease to either prevent or, by early detection, successfully treat some disease conditions;

(5) workers should be informed of exposure to an occupational hazard and the risks of contracting an occupational disease from such exposure;

(6) there is a need for increased research to identify the causes of occupational diseases; and

(7) prevention and early detection of occupational disease may reduce the costs of medical treatment and care in the United States.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The terms "Secretary", "employer", and "employee" have the meanings given by section 3 of OSHA.

(2) The term "current employee" means an employee who is presently employed by an employer and who is employed in a workplace where such employee may be exposed to a hazard under normal operation conditions or foreseeable emergencies.

(3) The term "former employee" means an individual who was an employee of an employer, but who is not presently an employee of that employer, and who was employed in a workplace where such employee may have been exposed to a hazard under normal operation conditions or foreseeable emergencies.

(4) The term "OSHA" means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(5) The term "hazard communication standard" means the standard contained in sections 1910.1200, 1915.99, 1917.28, 1918.90, and 1926.59 of title 29 of the Code of Federal Regulations.

TITLE I—HAZARDS COMMUNICATION STANDARD AMENDMENT

SEC. 101. HAZARD COMMUNICATION STANDARD.

(a) REQUIRED STANDARD.—Not later than one year after the date of enactment of this Act, the Secretary shall, in accordance with section 6(b) of OSHA, extend the coverage of and expand the rights of employees under the hazard communication standard so that such standard—

(1) requires that employers notify their current employees (by public posting or otherwise as prescribed by the Secretary pursuant to section 8(c)(1) of OSHA) of those employees' rights—

(A) to have access to their medical records, and

(B) to obtain copies of material safety data sheets and the list of hazards required to be retained under the standard.

from their current and former employers; and

(2) requires that employers make available to former employees, upon request, the list of hazards required to be retained since the establishment of the hazard communication standard concerning any hazards that were present in the employees' workplace during their employment.

(b) ADDITIONAL CONSIDERATIONS IN AMENDING STANDARD.—In the rulemaking proceedings conducted for the purpose of promulgating the amendment required by subsection (a) of this section, the Secretary shall consider evidence that such standard should also be amended to—

(1) require that such material safety data sheets—

(A) subject to subsection (f), contain recommendations, if any, for appropriate medical monitoring, based on sources or criteria identified by the Secretary in the standard issued under this section;

(B) include summaries written in simple, nontechnical language; and

(2) require that—

(A) employers provide training to current employees concerning such hazards;

(B) such training be of sufficient duration, both initially and in annual refresher courses, to inform employees of—

(i) the nature of the hazards present in the workplace and the methods by which employees can obtain further information concerning such hazards;

(ii) the measures required to avoid, prevent, or restrict harmful exposure; and

(iii) the measures required to reduce the harmful effects of exposure, including appropriate medical monitoring; and

(C) such training of employees emphasize the chronic and acute health effects associated with such hazards in a manner which promotes early detection and treatment.

(c) ENFORCEMENT OF SECTION 8(c)(3) OF OSHA.—Not later than one year after the date of enactment of this Act, the Secretary shall, in accordance with section 6(b) of OSHA, prescribe the methods and procedures to be followed by employers in complying with the last sentence of section 8(c)(3) of OSHA.

(d) OTHER STANDARDS.—Not later than six months after promulgation of the standard required in subsection (a), each Federal agency with responsibility for establishing health and safety standards for workers not covered under OSHA shall, pursuant to that agency's statutory authority, promulgate a standard which is consistent with the standard required in subsection (a).

(e) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with other Federal agencies for the purpose of implementing and enforcing the standard amended in accordance with subsection (a).

(f) MEDICAL MONITORING RECOMMENDATIONS.—If the Secretary determines, pursuant to subsection (b), to require the inclusion of medical monitoring recommendations in material safety data sheets, such recommendations shall be added to material safety data sheets at the time such sheets are updated for the inclusion of other information, but not later than 5 years after the date the Secretary makes such determination.

SEC. 102. PUBLIC SERVICE ANNOUNCEMENT BY THE SECRETARY.

The Secretary shall prepare, and distribute for publication or broadcasting, public service announcements informing current and former employees—

(1) of their rights to information, and current employees of their rights to training, pursuant to—

(A) the standards prescribed by the Secretary under section 101 of this title; and

(B) the access to employee exposure and medical records standard contained in section 1910.20 of title 29, Code of Federal Regulations;

(2) that material safety data sheets for hazardous chemicals (as defined under the hazard communication standard) are available upon request through the national and regional offices of the Occupational Safety and Health Administration; and

(3) of the addresses and telephone numbers of such national and regional offices.

SEC. 103. OFFICE OF HAZARDS COMMUNICATION.

(a) ESTABLISHMENT OF OFFICE.—There shall be within the Occupational Safety and Health Administration an Office of Hazards Communication. The Office shall be headed by a Director. The Secretary shall delegate to the Office responsibilities for the implementation of the standard amended by the

Secretary in accordance with section 101 of this title.

(b) ADDITIONAL FUNCTIONS.—In addition to performing such implementation responsibilities as the Secretary may delegate pursuant to subsection (a), the Office shall—

(1) annually review a substantial proportion of the material safety data sheets, and report to the Secretary those data sheets that fail to meet basic, performance-oriented criteria;

(2) provide technical assistance to inspectors and other enforcement personnel of the Department with respect to such standard;

(3) provide such personnel with listings of those chemicals that the Occupational Safety and Health Administration considers to be recognized hazards;

(4) provide up-to-date information with respect to chemicals on the basis of information contained in material safety data sheets;

(5) review available literature and research in order to alert the Secretary to emerging problems in hazard exposure; and

(6) assist in providing information to employers and the public with respect to occupational hazards.

(c) PERSONNEL.—The Secretary shall provide to the Office such personnel and administrative assistance as it may require. The employees of the Office shall include at least one qualified toxicologist.

SEC. 104. PERMISSIBLE EXPOSURE LIMITS.

(a) UPDATING Z-TABLES.—Within one year after the date of enactment of this Act, the Secretary shall, pursuant to section 6(b) of OSHA, promulgate such revisions to the standard contained in section 1910.1000 of title 29 of the Code of Federal Regulations as may be appropriate taking into account additional information and data available since the orignal promulgation of such standard.

(b) PERIODIC UPDATES AUTHORIZED.—The Secretary shall develop means to assure that the permissible exposure limits promulgated pursuant to subsection (a) of this section are updated as necessary.

SEC. 105. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—Except as provided in subsection (b), the hazard communication standard amended by the Secretary in accordance with section 101 of this title shall be treated as a standard prescribed by the Secretary pursuant to section 6 of the OSHA. Except as provided in subsection (b), such standard shall be administered and enforced under OSHA in the same manner as a standard prescribed pursuant to section 6 of OSHA.

(b) PENALTIES.—A violation of such hazard communication standard shall, for purposes of section 17 of OSHA, be treated as a violation of a standard prescribed pursuant to section 6 of OSHA, except that—

(1) the failure of an employer to comply with a requirement of such hazard communication standard—

(A) to make a hazard determination,

(B) to have a written hazard communication program,

(C) properly to label or use other warnings,

(D) to record on a material safety data sheet the information required with respect to any chemical, or

(E) to establish and conduct an employee training and information program,

shall be treated as a serious violation under section 17(k) of OSHA; and

(2) any employer who willfully violates such standard, if there is substantial probability that death or serious physical harm could result, shall, upon conviction, be punished by a fine of not more than $25,000, except that if the conviction is for a violation committed after a first conviction under this paragraph, the employer shall be punished by a fine of not more than $50,000.

SEC. 106. EFFECT ON OTHER LAWS.

Information provided to an employee under the standard amended pursuant to section 101(a) shall not commence the tolling of any statute of limitations with respect to any legal claim, except as may be specifically provided by State law.

SEC. 107. GAO EVALUATION.

(a) EVALUATION OF EFFECTIVENESS.—The Comptroller General shall conduct an evaluation of the effectiveness of the standard prescribed pursuant to this title. Such evaluation shall include an analysis of—

(1) the proportion of all employees who received effective notice of occupational health hazards by each of the methods required by such standard, and the proportion who do not receive effective notice;

(2) the extent to which the notice received by employees under such standard has prompted such employees—

(A) to exercise greater caution in the handling of hazards in the workplace;

(B) to seek effective medical monitoring or treatment, where appropriate; or

(C) to engage in litigation or otherwise to prosecute claims for injuries; and

(3) alternatives to or changes in such standard that will more effectively or efficiently deliver such notices and prompt employees to respond appropriately.

(b) REPORT.—The Comptroller General shall submit a report to the Congress on the results of the evaluation conducted under subsection (a). The report shall be submitted not later than 30 months after the date of enactment of this Act. The report shall include such recommendations as the Comptroller General considers appropriate for legislative or administrative changes.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, $20,000,000 for fiscal year 1988 and such sums as necessary for each succeeding fiscal year.

TITLE II—INTERIM NIOSH NOTIFICATION PROGRAM

SEC. 201. PURPOSE.

It is the purpose of this title to establish an interim program to provide notice to workers who participate in certain studies conducted by the National Institute of Occupational Safety and Health until the establishment of a more general notification program pursuant to the recommendations of the Risk Notification Study Commission pursuant to title III of this Act.

SEC. 202. ESTABLISHMENT OF PROGRAM.

(a) GENERAL REQUIREMENTS.—The National Institute of Occupational Safety and Health shall establish and implement an individual worker notification program for workers at high risk of disease due to occupational exposures who were or are involved in any retrospective cohort mortality study conducted by the Institute before or after the date of enactment of this Act. Such program shall be conducted in accordance with the guidelines for notification of individual workers as proposed by the subcommittee on individual worker notification of the Institute's board of scientific counselors on February 15, 1986.

(b) PROGRAM DEADLINES.—The program established by the Institute under subsection (a) shall provide—

(1) for workers who were involved in studies completed before the date of enactment of this Act, for notification within 18 months after such date of enactment; and

(2) for other workers, for notification as soon as is practicable consistent with the guidelines described in subsection (a).

(c) COOPERATION WITH PRIVATE EMPLOYERS AND STATE AND LOCAL GOVERNMENTS.—(1) In carrying out the notification responsibilities under this section, the Institute shall cooperate with private employers and State and local governments and, upon request, may certify a private employer or a State or local government to transmit notification under this section, in accordance with regulations issued by the Secretary.

(2) No private employer or State or local government certified under this paragraph may receive payment for the cost of such notification from the United States, or have a right of access to Federal records for the purposes of carrying out the notification.

SEC. 203. NOTIFICATION TO INCLUDE RECOMMENDATIONS FOR MEDICAL MONITORING.

Any notice given by the Institute pursuant to section 201 of this title shall include appropriate recommendations for medical monitoring.

SEC. 204. TELEPHONE INFORMATION.

The Institute shall establish toll-free telephone information for the employees notified under this title and for their personal physicians for the purpose of providing additional medical, health, and scientific information concerning the nature of the risk and its associated disease.

SEC. 205. DISSEMINATION OF INFORMATION.

The Institute shall prepare and distribute other medical and health promotion materials and information on any risk subject to notification under this title and its associated disease as the Institute deems appropriate.

SEC. 206. CONFIDENTIALITY.

Any records of the identify, diagnosis, prognosis, or treatment of an individual employee, or information that would lead to the identification of any such employee, which are maintained in connection with the performance of any function authorized by this title or which are obtained by any other person shall be confidential and, notwithstanding any other provision of law permitting disclosure, may be disclosed only—

(1) to the current or former employer of the notified individual;

(2) if necessary to perform any function authorized by this title; or

(3) with the written consent of such individual employee.

SEC. 207. EFFECT ON OTHER LAWS.

(a) USE OF NOTICES AS EVIDENCE PROHIBITED.—The following may not be introduced in connection with any claim for compensation, loss, or damage brought under State or Federal law:

(1) evidence that an employee or employee population is or is not about to receive (or has or has not received) notification under this title; and

(2) evidence that medical monitoring is or is not to be initiated (or has or has not been initiated) under this title.

(b) USE OF OTHER EVIDENCE.—With respect to any claim for compensation, loss, or damage under State or Federal law, nothing in this Act shall preclude the admission into evidence of—

(1) any medical and other scientific studies and reports concerning the incidence of

disease associated with exposure to occupational health hazards; or

(2) any data related to exposure to occupational health hazards for individual employees.

(c) EFFECT ON STATUTES OF LIMITATIONS.—Notification pursuant to this Act shall not be relevant in determining whether such claim is timely under any applicable statute of limitations.

(d) LIMITATION ON NONCOMPENSATORY DAMAGES.—No person may bring—

(1) any claim based on emotional harm, fear of disease, stress, or other nonphysical injury, or

(2) any claim for punitive or other noncompensatory damages, based on any report, finding, notice, medical evaluation, monitoring decision, or any other act or omission required by this Act. This prohibition applies whether the party bringing the claim has been directly subject to the report, finding, notice, evaluation, decision, act, or omission or is a party learning about such report, finding, notice, evaluation, decision, act, or omission that affected another person.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $5,000,000 for fiscal year 1988 and such sums as may be necessary for each succeeding fiscal year.

TITLE III—RISK NOTIFICATION STUDY COMMISSION

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the Risk Notification Study Commission (hereinafter in this title referred to as the "Commission").

SEC. 302. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) conduct a comprehensive study of the effectiveness of the notification program of the Institute under title II of this Act in preventing diseases arising wholly or partially out of exposures to occupational health hazards;

(2) analyze the extent to which risk notification duplicates other activities authorized under existing Federal law; and

(3) assess the feasibility of federally-provided individual notifications to employees and former employees determined to be in a population risk, including examination of alternatives to individual notifications.

(b) REQUIREMENTS FOR STUDY.—In conducting the study as provided for in subsection (a) of this section, the Commission shall consider—

(1) the direct and indirect costs that may be associated with a risk notification program;

(2) the direct and indirect savings that may be associated with such a program, including savings in Medicaid, Medicare, social security disability, federally-supported workman's compensation, and other health and welfare programs;

(3) the adequacy of medical monitoring, treatment, and surveillance for employees exposed to occupational health hazards;

(4) the effectiveness of medical monitoring or beneficial health counseling, or both, as part of a risk notification program;

(5) the scientific adequacy of established epidemiological, clinical, and toxicological studies in being able to define and identify worker populations at risk of contracting occupational disease;

(6) the extent to which nonoccupational factors such as smoking and diet may contribute to diseases associated with occupational health hazards;

(7) the health consequences of notifying or failing to notify a population at risk;

(8) the impact of such a program on the availability of insurance to small employers;

(9) the impact of such a program on the State-administered workers' compensation system; and

(10) the impact of such a program on liability litigation, including estimates of increased costs, if any, which may be associated with risk notification.

(c) REPORTS.—Within two years after the date on which the Commission first meets, the Commission shall submit a report to the Congress, including legislative recommendations that the Commission considers necessary and appropriate.

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of 15 members appointed by the President, not later than 60 days after the date of the enactment of this Act, from a list (or lists) of nominees provided by the National Academy of Sciences. Such lists shall include individuals from State workers' compensation boards, representatives of insurance carriers, business, labor, occupational physicians, epidemiologists, toxicologists, industrial hygienists, occupational biostatisticians, and representatives of the general public. The Secretary, the Secretary of Health and Human Services and the Attorney General shall be ex officio members of the Risk Notification Study Commission.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson from among its members.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which members are appointed, and the Commission shall meet thereafter upon the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) DIRECTOR.—The Commission may appoint an executive director from the personnel of any federal agency to assist the Commission in carrying out its duties.

(e) USE OF SERVICES AND FACILITIES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(f) PERSONNEL FROM OTHER AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to assist the Commission in carrying out its duties.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $1,000,000. Amounts appropriated pursuant to this section are authorized to remain available until expended.

SEC. 307. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of its final report to the Congress.

SEC. 308. EFFECTIVE DATE.

This title shall take effect on the date of enactment of this Act.

Mr. JEFFORDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

POINT OF ORDER

Mr. GAYDOS. Mr. Chairman, I make a point of order against the amendment in the nature of a substitute.

The CHAIRMAN. The gentleman will state his point of order.

Mr. GAYDOS. Mr. Chairman, the gentleman's substitute amendment is not germane to the committee amendment in the nature of a substitute, as amended, now being considered in the Committee of the Whole since the substitute amendment attempts to amend existing statutory law, specifically section 17 of the Occupational Safety and Health Act of 1970. The committee amendment merely cites this act for other purposes and changing the act's provisions is neither the subject matter nor fundamental purpose of the committee amendment. Additionally, the committee amendment makes no reference whatsoever to section 17 of this statute.

Specifically, the "penalties" provisions of the proposed substitute amendment clearly amend section 17 of the Occupational Safety and Health Act in two ways:

First, section 17 of the act establishes the criteria to govern the determination of a serious violation of OSHA standards. The gentleman's amendment creates five new circumstances, any of which would constitute, under section 17(k) of the act, a serious violation of the hazard communication standard, which is deemed to be a standard prescribed pursuant to section 6 of the statute. Thus, section 17 is amended through the enactment of a special set of criteria applicable solely for the determination as to whether one specific standard has been seriously violated. The language of this provision of the amendment in specifying the criteria and explicitly

stating that such failure of the employer "shall be treated as a serious violation under section 17(k) of OSHA" all clearly evidences a fundamental purpose to amend section 17 of the existing statute.

Second, the gentleman's amendment creates new penalties for "any employer who willfully violates such standard, if there is substantial probability that death or serious physical harm could result." Thus, the gentleman is amending section 17 of the act by establishing special penalties for the violation of one particular standard. These new penalties would supersede the current penalties for willful violation in section 17.

This substitute amendment can be characterized as an amendment "changing existing law" to a committee amendment in the nature of a substitute that "merely cites that law." The committee amendment does not in any way amend the Occupational Safety and Health Act of 1970. It does not in any way alter the rights, duties, and responsibilities prescribed under this statute. Rather, the committee amendment simply cites or references this statute in a few instances in order to accomplish other purposes.

A review of germaneness precedents indicates that "to a bill making a minor revision in one part of an existing law to accomplish a particular purpose, an amendment proposing changes elsewhere in that law that are not within the terms of the bill is not germane."

The citation for that is "Procedure in the U.S. House of Representatives: A Summary of the Modern Precedents and Practices of the House," chapter 28, section 32.1 (117 Cong. Rec. 12318, 92d Cong., 1st sess.). Furthermore, it has, also, been ruled that "an amendment repealing sections of existing law is not germane to a bill citing but not amending another section of that law, where the fundamental purposes of the bill and amendment are not related."

□ 1415

"Procedure in the U.S. House of Representatives: A Summary of the Modern Precedents and Practices of the House", chapter 28, section 32.11 (118 Cong. Rec. 9188, 9190, 92 Cong. 2nd sess.). Based on these rulings, a substitute amendment that amends a specific section of a current statute in two instances should not be ruled as germane to a committee amendment in the nature of a substitute that cites but does not amend any sections of that statute where the fundamental purposes of the committee amendment and the substitute amendment are not related.

A textual analysis reveals that the substitute amendment is not consistent with the subject matter and fundamental purpose of the committee amendment in the nature of a substitute. In fact, it is inconsistent with one of the basic purposes of the committee amendment, as explicitly stated in the committee amendment, which is to establish a Federal program of risk notification to be administered by a Federal agency other than OSHA, specifically, the Department of Health and Human Services. The committee amendment is structured in such a manner as not in any way to affect OSHA's duties and responsibilities, whether it be its standard-setting, enforcement or other powers. Thus, the committee amendment seeks to accomplish as one of its four basic purposes, a specific Federal program for risk notification in another Federal department without in any way changing the basic statutory scheme, duties and responsibilities of OSHA. On the other hand, the fundamental purpose of the gentleman's substitute is to attempt a refinement or perfection of the statutorily prescribed duties and responsibilities of OSHA and in so doing, it attempts to accomplish this purpose by amending existing law.

Therefore, Mr. Chairman, I request that the Chair sustain my point of order that the amendment violates House rule 16, clause 7 as being nongermane.

The CHAIRMAN. Does the gentleman from Vermont [Mr. JEFFORDS] wish to be heard on the point of order?

Mr. JEFFORDS. Yes, I do, Mr. Chairman.

First of all, I think it is important to point out that in no way do we attempt to modify OSHA in our bill. We refer to it, we make provisions which are consistent therewith, but we do not amend OSHA.

There are of course several tests of germaness. The substitute fits each of them.

The purpose of H.R. 162 is to notify workers of risk and try to prevent occupational disease. Our purpose is exactly the same.

The class affected in H.R. 162 is all workers, current and former.

If the objection is to the tort provisions of our amendment, let me point out that we are simply building on three evidentiary exclusions that are already contained in H.R. 162.

We simply add a fourth exclusion. For instance, I want to point out that there are evidentiary matters in here and relative to tort liability in this bill.

Mr. Chairman, there are three separate evidentiary exclusions in H.R. 162, thus preempting State rules of evidence for State workers, compensation or tort law. The bill also says that the information and knowledge resulting from the bill will not trigger any statute of limitation against stepping over State law.

Third, Mr. GAYDOS will offer an amendment to shield doctors, and no one else, from liability. This is the most blatant example of how "un-neutral" this bill really is.

Finally, individual notices, most of which will go to people who will never develop disease, will without any question generate countless suits. We believe there is no question on the liability aspects.

I would also point out, just reading our statutory language with respect to the matters referred to on page 9 of our statute, it says, "In general.—except as provided in subsection (b), the hazard communication standard amended by the Secretary in accordance with section 101 of this title shall be treated as a standard prescribed by the Secretary pursuant to section 6 of OSHA."

It just uses OSHA as a base for assisting in putting forth the propositions which we have in the bill.

It is our position that we do not in any way violate the rules of the House and that the substitute is in order.

The CHAIRMAN. Is there another Member who wishes to be heard on the point of order?

Mr. BARTLETT. Yes, Mr. Chairman.

Mr. Chairman, I seek to rise to the point or order and rise to the point that the point of order is not in order and would cite several instances on that.

First of all, I did attend along with a number of other Members at the Rules Committee.

The substitute being offered today is in no way a new substitute. It was widely discussed at the Rules Committee and the Rules Committee indeed offered what they believed was an open rule with waivers from all sides.

No waivers are required and so no waivers were requested or were offered but that was clearly the intent of the framers of the legislation and of the House.

Now today we are liable to have later on a whole series of amendments offered interestingly enough by the bill's sponsor and by others that many of which were offered or attempted to be offered at committee. Here we are coming to the floor of the House today and waiting to rewrite the whole bill. So there is some confusion.

Mr. Chairman, 14 amendments similar to some of which may be offered later on today were offered in committee.

Mr. Chairman, as regards the specific point of order, OSHA is specifically mentioned in H.R. 162 in a variety of places by reference. It is cited on page 31, page 13, page 11, among other places. On page 11 it reads, "Any employer insofar as Federal access is provided for under the Occupational Safety and Health Act of 1970 or the Federal Mine Safety and Health Act of 1977"; on page 13, OSHA is again

cited on line 8 of the bill, and that is: "* * * a permanent standard promulgated under section 6(b)(5) of the Occupational Health and Safety Act of 1970"; on page 31 it is also cited as are other civil penalties that are cited.

The fact is that H.R. 162 is a bill that is broad in its scope. It does in fact affect OSHA and the Department of Labor and the Department of HHS and other departments. The substitute is equally in order as the original bill.

One other point; that is, I bring to the Chair's attention page 9 of the substitute which as I understand the gentleman's point of order was specifically in question and this is what causes me to conclude that the substitute is clearly in order.

On page 9, what the substitute does is it cites by reference, again as the gentleman had said that it did not, it cites by reference in paragraph (a), "the hazard communication standard amended by the Secretary in accordance with section 101 of this title shall be treated as a standard prescribed by the Secretary pursuant to section 6 of OSHA."

That is very similar to what the bill does in other sections.

The other cite that the gentleman made was the promulgation of penalties in paragraph (b). Yes, the substitute does offer penalties but those penalties are not out of order. They are consistent with the main bill because the penalties that are offered are not amending the main OSHA Act. They are new penalties that would be offered only for violation of this specific bill.

The only new penalties that are offered are penalties that are for violation of this specific bill or specific substitute that is being offered.

So the substitute of the gentleman from Vermont [Mr. JEFFORDS] is equally in order as the original bill because the penalties that are being offered are in fact penalties that only affect the terms of this bill and not other violations or other penalties that are elsewhere in the OSHA Act.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. GAYDOS] wish to be heard further on the point of order?

Mr. GAYDOS. Mr. Chairman, I have no further comment.

The CHAIRMAN (Mr. TORRES). The Chair then is prepared to rule on this point of order.

The gentleman from Pennsylvania makes a point or order that the amendment in the nature of a substitute offered by the gentleman from Vermont [Mr. JEFFORDS] is not germane to H.R. 162 as reported. In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill (Deschler's Procedure, chapter 28, section 6.1). Both the bill and the amendment seek to establish a system for identifying and notifying workers who are at risk of contracting occupational disease. The bill puts the burden of notifying those workers at risk on the Secretary of Health and Human Services, as well as on employers of those at risk, with penalties for failure to comply being those established under existing law and regulations, as well as new injunctive relief contained in the bill. The amendment also provides for penalties for failure to comply with the new expanded Hazard Communication Standard. As cited by the gentleman from Texas [Mr. BARTLETT] both those penalties are the same as those existing under existing law, albeit redefined with respect to what constitutes a "serious violation" under section 17 of OSHA. As cited in the ruling of December 15, 1937, on page 537 of the House Rules and Manual, to a bill to achieve a certain purpose of conferring discretionary authority to set fair labor standards upon an independent agency, an amendment in the nature of a substitute to attain that purpose by a more inflexible method (prescribing fair labor standards) was held germane.

The Chair believes this line of precedent is more persuasive than those cited by the gentleman from Pennsylvania because in those cases the underlying bill had a very narrow purpose. Here, however, the underlying bill acknowledges the inadequacy of the existing law and administration sought to be augmented by the amendment, and puts in place a comprehensive new approach to the question of worker safety. In the opinion of the Chair, the amendment references those standards and sanctions in a manner not unlike H.R. 162. The Chair overrules the point of order and finds the amendment is germane.

The gentleman from Vermont [Mr. JEFFORDS] is recognized for 5 minutes.

Mr. JEFFORDS. Mr. Chairman, let me begin by commending PAUL HENRY for the excellent work he has done on this substitute. It is a solid alternative. More importantly, I think it is a much better alternative.

I want to explain to my colleagues why I am convinced our proposal will actually do more to protect workers health.

The first and most important reason is that the substitute focuses on prevention. H.R. 162 does virtually nothing to reduce occupational exposure to hazardous chemicals. Its approach is to tell you after exposure has occurred that you are at risk.

By contrast, the substitute requires that exposure levels be reduced for roughly 400 different chemicals. These are the chemicals now contained in the so-called Z-Tables. What are the Z-Tables? They are the list of the permissible exposure levels for some 400 chemicals which were set in 1970 and have not been changed since. We require that they be updated within a year in line with the current standards of the American Council of Governmental Industrial Hygienists.

At the same time, our proposal would build upon the current hazard communication standard by requiring the Secretary to look at additions to the standard such as tougher training requirements, better medical information, and summaries that can be read by the average working man or woman.

Our proposal would expand the hazard communication to workers who now are not covered, such as those in mining or transportation. Here we are talking about hundreds of thousands if not millions of workers. It would also stiffen the penalties for noncompliance with the standard.

To prevent occupational disease you simply have to reduce exposure. Hazard communication, which our proposal builds on, educates workers on the hazards in their workplace and trains them in how to avoid those hazards. The hazard communication standard itself is probably the most significant event in occupational safety and health since the passage of OSHA in 1970. It affects almost every employer, employee and consumer. Its startup cost is over a billion dollars and its annual cost will be several hundred million dollars.

That's a synopsis of what has been done and what we would do in the area of prevention under the substitute. But despite all that has been done in the area of hazard communication, and despite the additions our proposal would make in filling in remaining gaps, I think there is merit to notifying workers of their risk of occupational disease.

At the same time, I think we need to take a measured approach. I do not feel that we should plunge into full-scale, nationwide risk notification after a much more modest Federal pilot project was such a disaster.

If they were generalized, if we were to take experience there and take into consideration the 20 million or so notices that would be sent out we would have litigation that would be unbelievable. Not millions, not billions, but trillions of dollars of litigation if you took a look at what happened in that one case.

The Henry-Jeffords substitute contains an ambitious risk notification project which will probably notify more workers over the course of the 2 years than H.R. 162, but in a much more logical, orderly, fashion.

Why? Because the substitute proposal does not attempt to reinvent the wheel. The National Institute for Occupational Safety and Health, or

NIOSH, has already conducted close to 90 studies of individuals at risk of disease due to occupational exposure and has the names of some 250,000 people who were participants in those studies. Not all of these people could benefit from medical intervention. We estimate that under our proposal NIOSH would notify about 100,000 of the 250,000 people. The first notices would begin to go out almost immediately.

The benefit of this type of notification is that it could be done quickly and notice would go only to people we know something about. Our proposal would avoid the dangers of over-notification that are inherent in H.R. 162, as the notification would be far more precise.

At the same time, our proposal would establish a commission to study the impact of risk notification, both the positive and the negative. We could learn what, if any, medical benefits result from risk notification. We could also learn if the litigation that resulted from the Augusta pilot project was an exception or if it is the norm.

Sometimes pilot projects and commissions are established to duck problems. That is not the case here. The commission must report back within 2 years. By the end of that 2 years our proposal would result in far more notifications than H.R. 162. While we anticipate about 100,000 people will be notified within those 2 years under our proposal, I will be very surprised if H.R. 162 would result in a single notification during that period.

Why? Because we set up a new buracracy, new studies etc., let's assume H.R. 162 became law today. It would probably take the National Academy of Sciences at least a month to draw up a list of names, 4 months for the names to be cleared by the White House, and another month to pull staff together. OK, 6 months gone.

They work at breakneck pace and decide within a month's time that they want to issue a notification on a particular chemical. Under the bill, the first step is to publish notice in the Federal Register and allow a 60-day comment period. Following the comment period a hearing must be held within 30 days. A final decision is expected within 60 days. One year gone.

Let's assume that no one at any point will go to court to enjoin the Board. Given the fact that the affected industries will feel they have a gun pointed at them, this is not a very solid assumption. And the tortuous progress of the OSHA's health standards to date bears this out. But predicting the length of such litigation is difficult, so let's leave it aside.

How long will it take for NIOSH to pull together the list of the population at risk? According to NIOSH, 18 months. Under the scenario above, which does not even account for legal challenges to the Board's action, the first notice would not even go out for 2½ years.

I say all of this not to quarrel with the procedural requirements of the bill, but to make the point that the substitute will do more to notify high risk workers than H.R. 162 in the next 2 years. At the end of that 2 years we will have lost little. But we will have gained a great deal of knowledge on the benefits and problems of risk notification.

If our fears are unfounded, if Augusta was an aberration and risk notification results in medical improvements, little or no litigation problems, then I will support expansion along the lines of H.R. 162. But if we are right, then we would be well-advised to take our approach to notifying workers who are at risk of disease.

Just as importantly, in H.R. 162 we are talking about nothing more than a theoretical approach. It will be vetoed. Our substitute has the support of the administration. Unlike H.R. 162, it holds the very real potential to do something to improve the occupational health of our Nation's workers.

So don't cast an empty vote for H.R. 162. Cast a real vote for occupational health by supporting the Henry-Jeffords substitute.

□ 1430

Mr. FORD of Michigan. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, I know that the gentleman from Vermont does not want to leave this record in the state that it has reached now. First, the gentleman from Michigan used these numbers and told only part of the story, and I am afraid that the gentleman from Vermont has done it on two occasions. There has been much reference here to the Augusta pilot project which is becoming as real big red herring in this debate. That project did engender litigation. NIOSH conducted the program in Augusta. Eight hundred forty-nine workers were notified that they were at high risk of bladder cancer which is fatal without early intervention. Fifteen workers had confirmed cases of bladder cancer and another 22 showed signs of the disease.

Claims totaling $335 million were filed against the company by the workers and their families. Now the $335 million figure is a scare figure that we have heard over and over here again.

But the story goes on, as the popular commentator on the radio says, "Now we will tell you the rest of the story."

The rest of the story is what the company's actual liability out of this turned out to be. The company settled 120 of the 171 cases out of court for a total expenditure of $500,000.

Some $335 million in suits were filed by ambitious young lawyers. The company settled the whole schmeer for $500,000. Every other case other than those settled out of court was dismissed by the Georgia Supreme Court.

So the total payout for 22 cases of bladder cancer symptoms and 15 confirmed cases of bladder cancer, almost invariably fatal, was $500,000.

Now that has to be noted to put in proper context what we are talking about. We are not measuring these 37 lives against $335 million. We are measuring these 37 lives against $500,000, and 37 lives out of 849 people. God knows how many of the rest of the 849 people, without early medical detection and intervention, would have joined the other 15 in confirmed cases of bladder cancer.

Now if we are going to put on the scales of reason here the cost of litigation, against the benefit in saving people from death and permanent disability, let us put the real cost, not the imaginary cost that comes from the imagination of young lawyers when they file suit.

There is no limit to what you can claim when you file a suit. The real measure of damages is the amount for which you settle that suit or the amount that the court awards in a suit.

What we are talking about, for all of this cancer and all of the cancers that may have been detected early enough to prevent death is $500,000. Spread over 849 people I think that it does not take an awful lot of computation to determine that if we saved just a dozen or if we saved half a dozen people from becoming permanently disabled, with claims against the Social Security System as a result of disability or death, the taxpayers and other contributors to the Social Security trust fund have been paid back many, many times.

So contrary to the way it has been characterized, the NIOSH Pilot Program shows that this notification works. It shows that it has an economic payoff that is well worth the effort.

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

Mr. FORD of Michigan. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. Chairman, I think it is important to discuss the rest of the rest of the story for a minute. I think it is also important to point out what the legal fees were both in litigation with respect to the $335 million in claims and the litigation which is still going on, whether or not the insurance companies cover. These are all very real problems which still exist.

Mr. FORD of Michigan. Does the gentleman have any numbers on the legal fees?

Mr. JEFFORDS. Yes.

The total for the attorneys was $1 million paid out in attorneys' fees on both sides with respect to half a million dollars in settlement.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. FORD of Michigan. Mr. Chairman, the gentleman is an outstanding member of the bar, and I practiced a few years. Would the gentleman not say that it is a little bit irrational and unreasonable to be citing a case in which the attorneys' fees were 200 percent of the total recovery to all of the cases involved?

Mr. JEFFORDS. It embarrasses me, I would say that, Mr. Chairman, and I do not expect to get any accolades.

Mr. FORD of Michigan. I appreciate that and I, like the gentleman, share embarrassment for whoever in the Georgia bar is responsible for charging $1 million in attorneys' fees to dispose of the $500,000 package of matters. But that is not the issue before us.

Do not blame the workers or NIOSH for the overzealousness, if not greed of the Georgia lawyers.

Mr. JEFFORDS. If the gentleman will yield briefly again, we have no claim with the fact that notice of some sort is important to make sure that medical treatment is received as necessary. We are disturbed about the methodology of doing it. I would also point out that that company went bankrupt. In addition to that aspect, the insurance company—the claims against the insurance companies are still pending. So we have the ramifications which occur to a small business when this kind of notice which occurred in the Augusta case comes about. That is the point we were trying to make, not that it is not important to get notifications out. That is why we try to take what we believe is the more responsible approach.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. FORD] has again expired.

Mr. FORD of Michigan. I would like to go to another dimension of the rest of the rest of the rest of the story. It is interesting to note that while this firm, the bankrupt firm, the ultimately bankrupt firm that the gentleman referred to, was sued, 700 other companies were involved in notification projects. None of them were sued. What was the distinct difference? The chemical at issue in the plant that we have been talking about here has been a known carcinogen since way back in the 1930's. It is a chemical banned in Great Britain and Switzerland since the 1950's. Perhaps it was because every other American company had discontinued the use of that product as a known carcinogen, but the Augusta plant continued to expose its workers to it, that made the difference in it, out of all of the 700 companies, being the one successfully sued.

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

Mr. FORD of Michigan. I would be happy to yield to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. Chairman, I point out that under that particular study, that particular notice was only to one company, that was Augusta. There have been other pilot projects and studies done but the one which involved the litigation was to my knowledge only the Augusta situation.

Mr. FORD of Michigan. The gentleman will acknowledge there have been 700 such company notifications and only one company was sued.

Mr. JEFFORDS. Only one was notified in the manner to which we are referring. There have been other projects such as the asbestos workers and this is the only one where that method of risk notice was used which is the model that H.R. 162 utilizes, that is notice by the Federal Government.

Mr. GAYDOS. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment.

I am flattered that the administration and my colleagues have modeled their substitute amendment after my bill, but, unfortunately their version falls far short of both the intention and design of my high-risk bill, and it confirms that OSHA isn't doing its job.

First, their substitute would give OHSA $20 million to set up an Office of Hazard Communication within OSHA. This office would make sure manufacturers are being honest when they prepare material safety data sheets [MSDS's] explaining the hazards of the substances they produce. The office would also update the maximum worker exposure levels for 400 hazardous substances, which have not been updated since the early 1970's.

OSHA doesn't need the Henry-Jeffords substitute to check the accuracy of the MSDS's and update worker exposure limits, OSHA could do both of those things tomorrow, OSHA doesn't need a congressional mandate and $20 million to do these jobs, what it needs is a stronger commitment to worker health and safety.

Second, the substitute requires the National Institute for Occupational Safety and Health [NIOSH] to set up an interim notification program to notify 100,000 workers who were part of NIOSH mortality studies on occupational hazards. Unfortunately, another 150,000 whose names are known won't be notified. The substitute provides NIOSH with $5 million to do this even though NIOSH has requested funds every year for the past 3 years and has been turned down each time.

Again, I'm flattered that the substitute's notification is so similar to H.R. 162's notification program, but their version again leaves out some very important features.

The substitute's doesn't establish a risk assessment board of medical and scientific professionals to identify populations at risk. And, unlike H.R. 162, the substitute doesn't require medical monitoring of notified workers. Its supporters claim that a limited, interim notification program is sufficient because they believe that notification has not been proven effective.

On the contrary, NIOSH has already conducted three successful pilot notification programs which have successfully notified thousands of workers of their risks of developing specific occupational diseases.

In addition, a large number of private employers have instituted and maintained extensive in-house notification and medical monitoring programs; again proving that notification has already proven to be successful.

The third major problem with the substitute is that it doesn't include funding for regional health centers to provide professional advice and information to physicians and health workers involved with the notification program. So, under the substitute, there would be few training and information resources available to the doctors who will be working with notified workers.

A final and severe shortcoming of the substitute is that it creates a politically appointed risk notification study commission which would again delay for another 2 years the implementation of a comprehensive notification program such as proposed in H.R. 162.

As I've already said, there have been three Government-operated notification programs and a large number of individual company programs that have been and are successful.

All we're talking about here is delay, waiting for a political group to decide whether or not to take action while another 100,000 workers die and an additional 400,000 become disabled.

Finally, the substitute proposes spending $26 million to do jobs that OSHA could and should be doing. It proposes to study and test the notification process, even though it's been proven successful and cost-effective. And, it deletes features of H.R. 162 which are necessary to ensure success of the notification program, as I already mentioned.

H.R. 162 is significantly different from the substitute. It scientifically identifies and notifies workers of their risks of developing occupational disease; it provides for medical monitor-

ing; and it offers information and training to occupational health professionals.

Yes, Mr. Chairman, imitation is the sincerest form of flattery, but an imitation is not enough to protect the health of the 400,000 workers who continue to be disabled each year and the 100,000 workers who die each year from exposures to hazardous occupational substances.

I urge all of my colleagues to oppose the imitation and support the original, H.R. 162—the best bill to protect the lives and health of American workers.

□ 1445

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GAYDOS] has expired.

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

Mr. GAYDOS. I yield to my colleague, the gentleman from Pennsylvania.

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

Mr. Chairman, I do think the Members who are watching this, of course, want to see us agree on the facts, and I would be happy to submit documentation to the gentleman. In fact, the record should show that the Port Allegany risk notification project and the GM modelmakers and patternmakers medical screening process were both operated by the employer in combination with the union and were not Government notifications. The gentleman's point is that there may be some similarities, but there was not Government notice. It was an employer notice.

Mr. GAYDOS. Mr. Chairman, if I may point this out to my colleague, under the bill that same arrangement can be made. Under our bill, H.R. 162 as offered, the employer, if he so desires, can do the notifying. So if that bothers the gentleman, I guess they could do it that way.

Mr. BARTLETT. Mr. Chairman, if the gentleman will yield further, the bill actually says that the Government would do the notification, but if the Secretary approves on a case-by-case basis, then the employer could, but it would take a special circumstance. Under general circumstances it would be a Government notice.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GAYDOS] has again expired.

(By unanimous consent, Mr. GAYDOS was allowed to proceed for 1 additional minute.)

Mr. GAYDOS. Mr. Chairman, let me respond to my colleague and let me be very specific. Under the bill as written and before this body, an employer under any circumstances can opt to notify. That can be done under any other circumstances. All he has to do is tell NIOSH to follow his plan with NIOSH as he intends to notify.

There are certain ground rules laid out in the bill. For instance, we say that there cannot be any inflammatory statements made and it must be done in a proper manner, that they must do such and such, and if complies, he can notify. He can notify his employees, and when he does, that is his business, and if he wants to make sure that he is putting his best foot forward, he can do that, and if he is cooperating with them, then I have no problem with that. But the fact remains that on every notification every employer can do that and the Government would not make any notification. That is a possibility.

Mr. BARTLETT. Mr. Chairman, if the gentleman will yield further, that is correct as long as the Secretary agrees with it and does that on a case-by-case basis, but also only as long as the employer sends out the exact same notice that the Government would have sent out.

Mr. Chairman, I thank the gentleman for yielding.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to H.R. 162 and in support of the Henry-Jeffords substitute, in part because of the severe and adverse impact this bill will have on agriculture and in whole because of its effect on small business in general. When we think of occupational disease that is related by hazardous substances and processes, most of us see images of factories and mines, most of them in other Members' districts, and imagine that H.R. 162 will be limited in reach and beneficial in effect. No images could be more incorrect.

We have spent a good deal of time in this Congress, in the Agriculture Committee and here on the floor, debating ways to salvage the farm economy. But despite our best efforts on other fronts, H.R. 162 would be devastating to agriculture.

The enormous productivity of American farmers has come from a high degree of chemical and technical sophistication. The industry must rely on a variety of chemicals and other agents and processes that, if used improperly, could pose significant health hazards to the hundreds of thousands of farm workers who may encounter them.

American agriculture as we know it simply couldn't exist in the absence of most of these substances and processes. In most cases, protective regulations already exist and, as in most industries, workers simply need to be trained how to work safely.

For example, the EPA already regulates the use of defoliants, fertilizers, pesticides, insecticides, and fumigants under FIFRA. Besides duplicating the regulation of such chemicals, H.R. 162 would apply to any agent generated by or integral to the work process, as well as the work process itself. Grain dust in an elevator, cotton dust in a gin, and the repetitive motions in a slaughterhouse or processing plant all would be subject to H.R. 162.

Mr. RITTER. Mr. Chairman, will the gentleman yield for just one moment on that point?

Mr. STENHOLM. I am happy to yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, is the gentleman aware that the exposure to sunlight by farm workers in an outdoor environment puts them at greater risk to skin cancer; and that is probably on a statistically valid basis; and that it is quite possible that we will be forced to notify past workers who worked out in sunny fields and who may have a higher incidence of skin cancer?

Mr. STENHOLM. Mr. Chairman, the gentleman anticipates what I was about to say.

In fact, sunlight, being a physical agent integral to the workplace, and having been linked in medical studies to skin cancer, would be by the bill's own terms a hazard triggering notification, medical monitoring and counseling, and demands for transfer.

Now, I would be the first to admit that this borders on the ridiculous, and I do not pretend to say that the chairman of the subcommittee intends for this to be. My only point here is in pointing out that under the terms of the bill it is not litigation-neutral, and it is language like this that permits this kind of definition that causes me to be here and oppose so strongly H.R. 162 and support the Henry-Jeffords substitute.

But, under H.R. 162, where would farmers transfer the workers whose doctors want them removed from exposure to sunlight? Or from the possible exposure to the other possibly hazardous substances and agents in the farm workplace?

And let's remember, no matter how safe the workplace is today—whether farm or factory, ranch or retailer—H.R. 162 notification would reach back as far as 40 years, in the case of some employees. The resulting crush of medical expenses and litigation costs will be devastating, and not just for American agriculture.

This is a small business issue and one that we so often overlook on this floor when we begin to talk about the very real problems others have talked about.

Mr. Chairman, it has been suggested that agriculture be exempted from part or all of H.R. 162. Such a proposal would be flawed for at least two reasons.

First, if we admit that H.R. 162 would be onerous or unfair to agriculture, then how can we claim it is not

onerous and unfair to a vast array of other industries?

Second, no matter how explicitly any one industry is exempt from any of the provisions of H.R. 162, creative plaintiffs' lawyers will be able to generalize from Government findings in other industries as they file suit after suit against employers in the supposedly exempt industry. They will cite the Risk Assessment Board's determinations dealing with construction workers exposed to sunlight or exterminators exposed to pesticides.

The example I cite of how H.R. 162 would be disastrous for agriculture is really just one more example of how this bill takes an overboard approach that doesn't take into account the practices of whole industries or individual employers.

The CHAIRMAN. The time of the gentleman from Texas [Mr. STENHOLM] has expired.

Mr. STENHOLM. Mr. Chairman, my appeal to all of my colleagues is to apply a commonsense approach. Quite frankly, there are some problems that I have with the Henry-Jeffords approach, but at least it attempts to take that which we already have on the books, with the very real and acknowledged need by this Member of additional safeguards for those employees in agriculture and elsewhere, to take those additional needs and attempt to work with them in a commonsense approach. But for heaven's sake, let us not take another shotgun approach. That would be devastating to agriculture and, more importantly, to small business in general.

□ 1500

Mr. HENRY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to take the opportunity to, first of all, express some appreciation to the gentleman from Pennsylvania [Mr. GAYDOS], my distinguished colleague with whom I have worked on this measure for some months.

The gentleman has been eminently fair. We have some very substantive and real disagreements.

I want to thank the gentleman for the courtesies the gentleman has extended as we reach this point in our debate, but I guess almost ironically, I almost want to thank the gentleman for raising the point of order, and objecting to the consideration of the amendment in the nature of a substitute for the simple reason that it eloquently established the fact that the substitute has as the same fundamental purpose the protection of the worker in the occupational environment, that indeed the propositions addressed in the substitute are fundamentally similar, in that indeed no objection was raised for the fact that we do indeed establish new penalties on behalf of those who would violate higher new additional standards on behalf of the safety of the American worker.

In other words, quite frankly the nature of the objection which was not sustained by the Chair has very clearly established for all of the Members the fact that the substitute is indeed meritorious and well-intended in terms of being in keeping with the intent of the committee bill.

The issue before the Members once again is not whether, or even can we do something more to protect our workers in the workforce, but rather how best to secure this.

The gentleman from Pennsylvania made some rather disparaging comments that our substitute bill; for example, takes some pride, or we take some pride as sponsors of this measure that we immediately would update within 1 year promulgated new standards on the so-called Z tables.

Those standards pertaining to the most hazardous exposures that workers have in the workplace——

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

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

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

They have not been revised since 1970. They are so old that hair is growing on them.

Mr. HENRY. The gentleman is leading to my point.

The fact of the matter is, we found out that the litigative and posting process relative to this, it is taking on average something like 7 years per standard to update them.

What this bill does by legislative reference is, it mandates the updating by statute of 400 of these critical materials within a year.

It would do in 1 year what the present pace of OSHA updating would take, if I multiply 7 times 400, it would take us several thousand years into the future, so I hope the gentleman would understand that in fact this is a rather remarkable move in terms of our substitute immediately doing more for scores of millions of workers in the workplace than the gentleman's bill even contemplates in terms of the preventive hazard communication.

In fact, the gentleman's bill has no expanded hazard communication. The gentleman raises the question as to why we estimate some hundred thousand risk notifications in that risk notification portion of our proposal.

The reason for that is drawn from extrapolated, quite frankly, statistical inferences that out of 250 or so thousand workers, under these 600 or 700 NIOSH studies in which we know there were targeted populations who in fact were exposed to risk, and on whose part there is some reason to believe that some kind of risk communication program would be potentially helpful to them is the concern that roughly based on exptrapolation from past experiences, including the gentleman's pattern makers case, including our Augusta chemical case, including the experience with the Port Allegany risk notification done in conjunction with the labor unions and management, we are estimating about 10,000 of that 250,000 can indeed be reached.

We certainly do not preclude going after each and every one of those people whom we have reason to believe, under every available Government study, have been exposed to those kinds of hazards.

I also want to in a friendly way once again object to the rubber numbers that the gentleman is using relative to the health figures. The concept that 100,000 are dying.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

Mr. HENRY. On several different occasions I have tried to point out that yes indeed, that estimate was made in one Government report.

It is also an estimate that the same agencies which have issued the report have subsequently repudiated it.

The National Cancer Institute repudiates those numbers. The Office of Technology Assessment repudiates those numbers.

I have here a very recent editorial from a science magazine, the American Association for the Advancement of Science, which approaches this whole issue very differently; and I will get to that later, time willing, pointing out quite frankly yes, there is an extreme in the medical community which would argue those figures.

It is clearly not the majority opinion in the scientific community.

That would suggest the figures, the gentleman's figures suggest that 38 percent of all cancers are occupationally induced and related, whereas the mainline of the scientific opinion is anywhere in the range from 5 to 15 percent. That would be the accepted standard.

That does not mean that we do not do everything we can in the workplace to address those 5 or 15 percent, but we should point out that these figures have been consistently repeated over and over again, but they are inaccurate.

We have had the same problem relative to the liability question, and that is a fundamental question. When we deal; for example, with the GAO report on this bill, and I quote from the report, and here is the problem.

"The potential number of personal injury and product liability lawsuits that might be filed against the Government and employers and the impact of a significant increase of such lawsuits on the tort system, the

workers' compensation system, and businesses as a result of the legislation has not been fully assessed."

Indeed, it has not. That is why we have tried to establish a substitute that works with the system which we know, and in which we understand we are not creating undue risk.

I note the testimony of the Association of American Insurers, the American insurance association representing 80 to 85 percent of all the liability underwriting in the United States.

They say relative to the bill, first we believe there will be intense pressure on the workers' compensation system to presume the work-relatedness of each particular individual's illness for which a general notification has been issued.

Indeed that is exactly what has happened in the case of the patternmakers, or in the case of the Augusta Chemical.

The costs on liabilities have in many respects exceeded, in fact, the costs of medical monitoring, and any real loss to the workers.

Second, counting from the testimony of insurers, we are concerned that the actual notices will not be kept out of workers' compensation or civil proceedings, and indeed they are not under the committee's bill.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

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

Mr. HENRY. I would be pleased to yield to the gentleman from Texas.

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

I do want to make sure that the gentleman gets on record that earlier during the debate of the Augusta Chemical notification, and that is the only notification that has been a Government notification, although there have been in the whole country two other employer-based notifications, we seem to have lost track of the significance of that.

The significance of that was in the notification of 800-some-odd workers and ex-workers, there were 7 that already contracted, as I recall, cancer of the bladder, and 7 more that were screened and identified for it.

Of those 14 actual medical diagnoses, though, there is no dispute that there were 170 cases or lawsuits filed, and 120 claims actually paid, so the company actually paid out in this limited circumstance, actually paid out 120 claims against only 14 medically diagnosed cases of that particular occupational disease.

Mr. HENRY. The gentleman is correct, and that is also again one of the failings of the committee bill.

The committee bill precludes considerations of such things as behaviors and lifestyles. We found in the case of the GM patternmakers, in that instance the final disposition of that cooperative effort between Government, management, and the union was final conclusion that in fact the diseases being experienced on that line were not in fact occupationally related but behaviorally related.

Mr. BARTLETT. Mr. Chairman, if the gentleman will continue to yield, in addition, as I understand the committee bill which the gentleman has an excellent substitute for, in the committee bill, even though the actual notice cannot be used in a court of law, all the facts behind that notice and the fact of the notice not only can be used but it is likely it would be used.

Mr. HENRY. The gentleman is correct, and that is the problem. That is why the business and insurance, and even the legal community, warn us about the fact that the liability costs potentially overwhelm all the other aspects and costs of this legislation.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

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

Mr. HENRY. Mr. Chairman, I yield to the gentleman from Pennsylvania.

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

I would like to get back to the Augusta Chemical situation. That notification situation was based on a very rigorous set of guidelines; it had guidelines such as the duration and the level of exposures.

There was an accepted screening process for evaluating the effect of the exposure once you knew that there was such an exposure; also there was a surgical technique available to reverse the impact of harmful exposure.

Just think about this. All the Risk Assessment Board needs is a report saying that there is a statistically valid difference between the background level of people who are going to get cancer of a certain type and those who have been exposed to a certain type of chemical for notification to proceed.

It does not say anything about a screening method available, or the possibility of medical procedure to intercept the disease.

If one compares H.R. 162 with a situation which was very definite using all of the criteria mentioned above, it still resulted in 171 lawsuits out of 849 cases—20 percent. Say we hold to the 20 percent, and if there are millions notified, the 20 percent means hundreds of thousands of lawsuits. This country is presently bending beneath the weight of litigation.

We do not need a major new potential for litigation.

Mrs. BYRON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the substitute.

First of all, let me say if the Jeffords substitute goes down in defeat, I want to go on record that I plan to offer an amendment that I have that would exempt small businesses of up to 15 employees from the medical removal provision of H.R. 162, if the company has made a good-faith effort to prevent occupational exposure.

The bill as it stands would now require employer payment of up to 12 months' pay and benefits to employees who must be removed from a job when the transfer cannot be arranged, regardless of the number of jobs that an employer is able to provide.

When a business has fewer than 15 employees, the possibility of an employee's transfer is significantly limited. How can it be expected that a business with so few employees should be able to create an extra space to accommodate an employee's transfer?

Fifteen is the number that has been used in the past as a cutoff for small businesses. I do not think in this day and age a 15-employee business is a small business. I think more in the realistic area is 50, but 15 is the number that has been used; and I have been advised that it has been used already in existing OSHA regulations, in civil rights legislation.

There never can be a magical number of what a small business can be to be protected. I feel that 15 is a number which the majority can live with.

I feel that businesses should, under all possible circumstances, afford proper notification and medical removal opportunities to qualifying employees. I do not feel, however, that this should take place when the business is so small in size as to render the transfer of an employee to another position, comparable in pay and benefits, an impossibility.

Should an employer transfer an employee in order to met his or her health needs? Yes, of course. In the case of an employer with so few employees, such a transfer would threaten the operation of the business, as it would for a company of 15 and fewer employees, then I feel that an exemption is in order.

Somebody asked me what the committee feels on this, and it is my understanding that they feel this is a friendly amendment.

□ 1515

I want to go on record stating that if the Jeffords substitute goes down, that amendment will be offered by this Member.

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

Mrs. BYRON. I am glad to yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I appreciate the gentlewoman yielding. We have discussed this, as well as other aspects of this proposal.

Let me simply say that it is somewhat ironic that for an amendment which is meant to come to the aid of the small business community, basically those whom it is designed to help have not been particularly supportive of it. I mean, I have received no communications from NFIB or the Small Business Alliance or from the Farm Bureau that this resolves their problem.

Let me say why, and I say this respectfully. The amendment suggests and talks about, for example, some kind of threshold where you would protect the interests of a small employer so long as the employer was making a good-faith effort to remove the hazard.

Well, obviously, in the case of agriculture, you cannot remove the Sun, if the Sun is the hazard.

On the other hand, you can protect against exposures, and that in part is what the problem is here.

So I would simply put up that there are some problems here that have not been resolved. I thin that is why the gentlewoman's amendment has not really at least received institutional support from the various communities it seeks to serve.

Mrs. BYRON. Well, Mr. Chairman, let me say that I think business should be responsible for meeting the health needs of their employees through proper notification and medical removal procedures. I do not feel that it is an overthreat to productivity and competitiveness of other small businesses. I do not think that it is feasible to expect a business of 15 or fewer to be able to transfer those employees, and yet I do feel strongly that a business does have a requirement to meet the needs of their employees.

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

Mrs. BYRON. I am glad to yield to the gentleman from Pennsylvania.

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

I want to express my appreciation to the gentlewoman for her at least trying to do something about the rather damaging impact of this bill on small business. The gentlewoman has said that 15 employees is a very small number. Most small businesses may be under 15, but a vast number of the most energetic, growth-oriented businesses in America today are these smaller and medium-sized businesses. They are the new kind of manufacturing firms that have lately grown up in America. The smaller, more flexible manufacturing businesses, are businesses of 15 to 200 or more. But these businesses will bear the full brunt of H.R. 162. For them there is no exemption.

Dr. David Birch from MIT has talked about this sector and the promise they hold.

I have a question. I have to wonder whether or not businesses might purposely seek to limit themselves. Let us say a business has got 10, 12, or 14 people and it is growing. It is going to be a big business someday.

The CHAIRMAN. The time of the gentlewoman from Maryland has again expired.

Mr. RITTER. Mr. Chairman, will the gentlewoman yield further?

Mrs. BYRON. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Is it not possible, may I ask the gentlewoman, that small businesses would seek to limit their employees to 15 people in order to avoid the potential burden of H.R. 162?

Mrs. BYRON. I doubt that very seriously.

Mr. RITTER. Excuse me?

Mrs. BYRON. I doubt that very seriously.

Mr. RITTER. In other words, if a manufacturer wants to employ two more people, and go from 15 to 17 people, he'd have to figure the marginal cost that conformance with H.R. 162 would add to the balance sheet and what perhaps those two individuals themselves would add in terms of additional profit—then he'd have to subtract the gain from the loss. Perhaps it wouldn't be worth while to add new employees.

But I thank the gentlewoman for yielding.

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

Mrs. BYRON. I am glad to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentlewoman for yielding. I respect the gentlewoman a great deal. She has shown a great deal of leadership on these and other issues, but it does seem to me that the gentlewoman will be offering an amendment which will help this body to understand what is wrong with the bill, because the gentlewoman does not, and indeed her amendment cannot exempt small businesses.

The CHAIRMAN. The time of the gentlewoman from Maryland has again expired.

Mr. BARTLETT. Mr. Chairman, will the gentlewoman yield further?

Mrs. BYRON. I yield to the gentlewoman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentlewoman for yielding, because this is an important point.

The gentlewoman's amendmemt, as I understand it, and I want her to correct me if I am wrong, because it is not up yet, would offer an exemption only from the section of the bill that gives a 12-month severance pay to a company with 15 employees or fewer.

Mrs. BYRON. The medical removal provision.

Mr. BARTLETT. So the gentlewoman's amendment only exempts that company from the medical removal provision. I thank the gentlewoman.

The Machine Tool and Machining Association has estimated a number of other costs that are in this bill that indeed are far more significant to even that one, even though that one is a very significant cost, and I applaud the gentlewoman for going in that direction.

I just want to be certain that the gentlewoman's amendment does not and could not exempt that small business from notification if the business is in a whole population that is found to be statistically at risk. Does the gentlewoman's amendment do that?

Mrs. BYRON. That is the medical removal procedure.

Mr. BARTLETT. Mr. Chairman, if the gentlewoman will yield further, does the gentlewoman's amendment provide an exemption from the cost of medical monitoring, testing and screening? Incidentally, the cost of notice by the Machinists Association is estimated to be $117. The cost of testing is estimated to be between $50 and $500 per employee. Are those testing and medical monitoring costs exempted?

They are not exempted either, are they? In other words, the company would still have to provide medical monitoring and testing for each and every employee?

Mrs. BYRON. Yes.

Mr. BARTLETT. That is under the gentlewoman's amendment?

Mrs. BYRON. Yes.

Mr. BARTLETT. There is more. This association has estimated a cost of about $20 each, they would have an estimated cost of transportation and food and lodging. Those costs would still be borne by the employer, as I understand it.

Mrs. BYRON. Yes.

Mr. BARTLETT. This association also estimates a cost of $133 per employee for the cost of idle equipment as the employees go off to be tested.

Keep in mind, as the gentlewoman answers that, that these are not employees who have a disease. These are not employees who are even indicated by a scientific or medical study to have a disease. They are simply in a population where they have statistically higher incidence.

Is that cost of idle equipment also exempted?

Mrs. BYRON. I believe that is correct?

Mr. BARTLETT. It is not exempted then?

Mrs. BYRON. No.

Mr. BARTLETT. Also is the employer in any way exempted from an increase in liability——

Mrs. BYRON. Mr. Chairman, the gentleman has in front of him a sheet of numbers. I am not sure where the gentleman got the numbers. I have not looked at those numbers. It is very difficult for me to say something is correct or incorrect, not having the numbers the gentleman is dealing with.

It is my understanding, talking with the staff, that the gentleman's numbers are incorrect.

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

Mrs. BYRON. I am glad to yield to the distinguished gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, let me get something straight in the record here. This business of asking this type of question is so fundamentally unfair. We talk about medical monitoring. We talk about examinations. This is what H.R. 162 provides for.

No. 1, if an employer is found to have on his premises a dangerous substance or a procedure, then he is subject to being notified and if he is notified, his only obligation under the bill if the employee after he gets notified wishes to have a medical examination, the only obligation the employer has is to provide that examination.

Now, the gentleman is talking about here we are going to do this and that, $30 here and loss expenses there.

The fact remains that the gentleman does not mention that under the bill the possibility, for instance, of bladder cancer, that the cost is $6 for a urinalysis and it is done every 3 years; so in that specific instance the employer pays $6 in a 3-year period.

Now, all this hogwash about here they are going to be doing this and then pick out the most assinine, or rather the highest expense as far as the medical costs are concerned, and try to attribute it to this, is foolish.

The CHAIRMAN. The time of the gentlewoman from Maryland has again expired.

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

Mrs. BYRON. Mr. Chairman, obviously the gentleman has a list he is reading from cost by cost per se. My intent of the amendment, as the gentleman well knows, was to exempt a small business that has 15 employees or less from the medical removal provision, because it is a situation where it would be very difficult for those small businesses to operate in those capabilities.

Mr. BARTLETT. Mr. Chairman, will the gentlewoman yield on that point?

Mrs. BYRON. I am glad to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I will not read down the list, although I will be happy to make a copy available.

Mrs. BYRON. I would like to have a copy of the list.

Mr. BARTLETT. I think the important thing is to understand that the bill itself cannot be amended in a way that would do more than what the gentlewoman proposes, which is to exempt only from that medical removal.

Mrs. BYRON. That is right.

Mr. BARTLETT. I think the gentleman from Pennsylvania overstated what the board does a bit.

The bill would still mandate that the Risk Assessement Board identify and review and notify whole groups of populations, not reviewing specific companies, that is what the Jeffords-Henry bill would do.

The bill before us, and I will just quote from page 9:

> Functions. The Board shall review pertinent medical and other scientific studies and reports—

Not company specifics, for the whole population at risk, or going on:

> Identify and designate from this review those populations at risk of disease.

So the amendment of the gentlewoman cannot exempt a small employer from being a part of that population from notice and from liability and from other things, but only from that one removal provision.

Mrs. BYRON. Medical removal, as the gentleman well knows is a procedure by which an employer moves a worker notified of the risk of a disease from a position in which he is exposed to a hazardous substance, and that would take place after consultation between the worker's physician and the employer's medical representative. The worker would then be permitted a temporary transfer to another job without loss of benefits or decrease in salary.

As I said before, there are those companies which are small busineses with 15 or less employees that do not have the flexiblity to move those people laterally within their organization. That is why I proposed to remove them from this section of the bill.

Mr. BARTLETT. Mr. Chairman, will the gentlewoman yield one more time, and I will be brief.

Mrs. BYRON. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I do thank the gentlewoman for bringing this up in debate because it does demonstrate all of the other things in the bill that cannot be exempted, which are the most onerous parts of the bill. I think the gentlewoman goes in the right direction to exempt that one provision, but the rest of the onerous burden of the bill that is utimately borne by the employers themselves cannot be exempted and the gentlewoman does not propose to exempt those other burdens and could not if she wanted to.

I thank the gentlewoman for the time.

Mr. FLORIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the substitute and in favor of the legislation.

I think it is fairly clear to all who are objective that American workers unfortunately are routinely exposed to highly toxic substances and chemicals in the workplace. I think it goes almost beyond good faith debate to try to trivialize the issue by making reference to the sun being the equivalent of methylisocyanate or something else that you will find in the workplace. That ranks right up there with those who have said that there is not need for pollution control because trees are the ultimate polluters.

I think it is fairly clear that we have a serious problem. It is appalling that we have waited too long to address it and this bill, quite candidly, is just a preliminary effort to try to deal with the key fact of notification. It does not even deal with removing the problem. It deals with mere notification, identification and notification; the rational expectation being that someone will be able to detect the problems earlier and then take remedial action to try to deal with the problem before there is a need for even greater expenditure from wherever they come to deal with health problems.

In a sense, this bill represents a natural extension of the Community Right to Know Act that was overwhelmingly approved in a bipartisan way last year by this Congress and signed into law by the President. The Right to Know Act provided essential comparable information to our communities living next door, as they might, to manufacturing and other industrial operations about the routine exposure that those communities may have to chemicals coming from those facilities that may cause short-term or long-term injuries.

In a sense what we are doing is extending that same fundamental right to the workers who work within the facilities that we have already granted to citizens who live around those facilities.

I want to emphasize and perhaps focus in on an aspect of this that is being allegedly addressed by the substitute that is being offered, the so-called liability crisis. The suggestion has been made that this bill will lead to enormous litigation costs. That is clearly not the case.

Our committee, the committee that I chair, the Subcommittee on Commerce, Consumer Protection, and Competitiveness, has been holding a series of hearings on the whole question of the need for the scope of Federal product liability reform and the issue of toxic exposure has played a critical role in our deliberations.

As I read this bill, H.R. 162, this will neither add or substract from the rights of workers who wish to seek damages in the State court systems for occupational diseases.

By contrast, the substitute will substantially, radically and dramatically change and curtail the rights of workers to seek relief from injuries that are currently being provided. Now, it is those rights that are currently provided in the State courts. This will effectively preempt the State rules of evidence that exist. We will be having the workman's compensation system changes. The State tort laws will be changed and we will have the somewhat perverse result being that workers who are notified who have substantially differing sets of rights in the State tort law system than workers who are not notified.

□ 1530

I think that dual track system will be particularly strange. Likewise, we will have a system where workers who are notified as contrasted with workers who are not notified as contrasted with someone out on a road who is exposed to the same chemcial as a result of the truck accident, we will have three different sets of rights under State tort laws. For those here who are interested in State's rights, for those few States that I know already have changed their States tort laws, we are going to be undoing all that is going on at the State level as a result of this effective Federal preemption.

In a sense that is what some would want to do. I give no bad faith motives to anyone but some who might be supportive of this type of substitute are effectively trying to bootstrap intrusive Federal reforms of State tort law on to people of this country without any type of deliberation, without any type of understanding as to the ramifications of that very dramatic change in the laws of this Nation here at the 11th hour under an amendment that sounds somewhat innocuous, but in fact will provide for radical changes in the laws of our 50 States without the appropriate deliberations that I think these changes are certainly due.

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

Mr. FLORIO. I yield to the gentleman from California.

Mr. BERMAN. On this point, and particularly that part of the statute that is referred to as limitation on noncompensatory damages, the discussion on the substitute about the liability explosion that could result from this kind of bill, in reality when you parse through all of that the gentleman has I think very accurately and incisively pointed out that his bill creates no new theories, no new causes of action for compensation for industrial or occupational diseases, no evidentiary standards or presumptions.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. FLORIO] has expired.

Mr. BERMAN. If the gentleman will continue to yield, but what the statute does is to say that if the California Legislature wants to provide a punitive penalty on top of its worker compensation laws for the employer who egregiously and seriously and willfully decides to expose his employees to poisonous substances with the resulting and significant and consequential injury to those employees, the legislature after their debate and their decision that this is a sensible thing to do because it might deter other employers in the future from egregiously exposing their employees willfully and consciously to that kind of injury, they cannot do it because it preempts punitive damages for anybody in this group that would get this kind of notification.

Furthermore, if they decide that either standing alone stress, or emotional injury, as a result of some occupational condition or as a result of a physiological injury that comes from an occupational injury or disease, and they also are within this high risk group that has been notified, the State legislature cannot decide to provide compensation to them.

Whatever happened to the argument that we see so much on that side of the aisle about the State legislatures being the laboratories for progress and innovation and decision and all of a sudden the Federal Government comes in and wipes out causes of action, theories of recovery, matters that State legislatures decided after debate and vote and all of that and decide it should be the law for workers in their States?

I think the gentleman from New Jersey [Mr. FLORIO] makes very good points.

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

Mr. FLORIO. Mr. Chairman, I yield to the gentleman from Vermont.

Mr. JEFFORDS. Let us get back to the legislation we are involved with instead of all this speculation that is going on.

First of all, mention is made of evidentiary changes as far as evidence and all that. The bill, H.R. 162, has almost the same restrictions on utilization of that language except in a couple of matters that this substitute does. I just point out on page 34, subsection (b), it lists them right there. So we are doing nothing in that regard to any great extent over and above what the bill does. It says it tries to make sure that these notices in some way are restricted.

Mr. FLORIO. Mr. Chairman, reclaiming my time, I would ask the gentleman a question.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. FLORIO] has again expired.

Mr. FLORIO. I would ask the gentleman if he has any doubts that if the statute were passed, it would reduce the rights of the affected employees to equal access to the court system that they currently have now?

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

Mr. FLORIO. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I say to the gentleman, not equal access to the court system, but it would reduce the limit of liability of the small businesses that may get sued. There is a big distinction in that respect. We will not do away with compensation for actual injury or harm, bodily harm and that sort of thing.

Mr. FLORIO. Mr. Chairman, reclaiming my time, I thank the gentleman for his observations, but it is fairly clear that it is being stated that there is not any doubt that the Jeffords amendment, if it were to pass, would substantially reduce the rights that employees currently have under the existing law in the different States. Likewise, it will set up a dual track of remedy options to workers and we will have, ironically enough, transactional costs that we are all concerned about that are going to be far in excess of what the existing system of law is in the States because we are going to have workers in categories, workers that are notified and have certain rights, and workers not notified who do not have rights.

So at a time when all of us are very sensitive in the argument for competitiveness, of reducing transactional costs out of our tort law systems, here we have in this sort of semisurreptitious way an effort being made to change the State laws in ways that are going to not only diminish the rights of employees currently but, over and above that, we are going to tack on added costs to the court system to try to divine what these new rights are, how the court system is going to attempt to deal with those new rights. Over and above that, this is not the way to deal with this radical change in the State tort law at the 11th hour without a whole lot of notice being given when there are other committees that are looking very deeply into any types of changes which should be made in this area.

I have to say that the bill is a good bill. There may be some argument at some point after real committee deliberations on changing the product liability laws, the tort laws, but this is not the way to deal with it.

Mr. HENRY. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Michigan is recognized for 5 minutes.

There was no objection.

Mr. HENRY. Mr. Chairman, I do want to respond to the previous speaker because quite frankly he addresses some of the more contentious and also fundamentally important issues of the choice before us.

The speaker previously stated in essence what our bill does, but not so much in the area of worker protection, but then points out that, year, the bill as reported by committee establishes this new comprehensive program of risk notification. Then he went on to say, and I quote, "It is too bad it does not do more. It does not deal with removing the problem itself."

That is the whole point of the substitute. The substitute does. The substitute does seek to remove the problem itself by preventing the kinds of exposures that yield to occupational illness and injury in the first place. It is preventive.

At the same time the substitute also by incorporation references in all of that universe of 250,000 workers and some 700 NIOSH studies where at this point in time we have reason to believe there are workers who formerly did have exposures that ought to be triggered into some kind of risk notification.

So, yes, we do risk notification but on a much more guarded approach to see what we can learn from it because of some of our concerns on the liability issue but we do solve the fundamental problem that the gentleman himself addressed. We do indeed deal with removing the problem by protecting against the exposure in the first place. We do that much more substantively. We do it dramatically and I point out the committee's bill does not do that at all.

Second, the gentleman raises the issue of preemption of State and local authority in the area of hazard communication and right to know.

I would ask the gentleman, and I ask him in good faith because I am sure he makes the statement in good faith because the statement has been made so often, where in the substitute is that? I would like to know where in the substitute we do that?

Mr. BERMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. HENRY. I yield to the gentleman from California on that point.

Mr. BERMAN. At the bottom of page 15, limitation on noncompensatory damages, line 20.

Mr. HENRY. No, I will come to that point next.

Mr. BERMAN. If the gentleman will continue to yield, this is a preemption section. This says no person may bring any claim under State laws and without regard to what the State laws may provide, actions for punitive damages, for emotional harm, fear of diseases, stress, or other nonphysical injury connected with or separate from a physiological illness or injury.

Mr. HENRY. Mr. Chairman, reclaiming my time, I would be very glad to come back to that issue. I want to establish the issue that we do not prempt in any way a State and local right to know or hazard communication statute.

What I believe both of my colleagues may be concerned about is do we remove rights in law, rights of recovery for damage, for injury, for workers' compensation?

The answer to that is no.

What we do is, granting that the bill and that a process of expanded risk notification in which our bill steps as well as the committee's bill, although in a different manner, and our bill has expanded hazard communication, what we do is block off new entries based on the notification itself as being a basis for a stress claim. But we in no way diminish any existing right under law for any demonstrated injury under existing worker's compensation.

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

Mr. HENRY. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, that was a nice effort, but the fact of the matter is it is fairly clear, and the gentleman from California [Mr. BERMAN] just read off the specific rights that are preempted to go to court to recover under existing laws in the different States, whether it be punitive damages or the other points that he made.

So there is no question but the absence of your substitute in law provides certain opportunities in the States for employees to recover. The passage of your substitute will preclude that.

I do not know how one can varnish it up, and one can say anything but the workers will be less well off in terms of their opportunity to recover for damages in the courts if this substitute passes.

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

Mr. HENRY. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, this is from H.R. 162, not from our substitute. It is from H.R. 162. On page 34, line 8, "In connection with any claim for compensation, loss, or damage brought under State or Federal law, the following may not serve as a legal basis for or be introduced as evidence in connection with such claim: (A) a finding or determination of the board, * * *", and then down to (B) "evidence that an employee or employee population is or is not about to receive notification under this Act; and (C) evidence that medical monitoring or evaluation is or is not to be initiated under this Act."

Certainly if my colleagues want to talk about State law it is evident that it is the same.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

Mr. JEFFORDS. If the gentleman will continue to yield, we admit we do try, and with respect to stress claims, those claims which result from people that have no problem with respect to exposure, but because they have received a notice may become anxious and that is one of the greatest areas of abuse by the use of the legal process, and that is by coming into court and making those claims. Those are the ones that end up getting settled, and that is what costs the greatest amounts of money. That is the reason we spent $2 million for lawyers' fees in the Augusta case and $500 million for compensatory claims. That is the kind of thing that we want to prevent. We do not apologize for putting a limitation on that or on punitive damages. We are doing nothing with respect to the other kinds of damages that the bill itself does not attempt to do. We are not attempting to abrogate State laws in that regard.

If they have actual damage under workman's comp, or actual damage under tort law, they have their rights and they are protected.

With respect to stress claims and with respect to punitive damages we do our best to try and prevent that kind of litigation from decimating small business and from making the lawyers wealthy and the rest of the workers poor.

Mr. HENRY. Mr. Chairman, first of all, for purposes of our subsequent discussion I want to reiterate that there is no preemption in terms of State and local hazard communication or right to know. We are silent on that. We do not touch the law.

What we do is expand what is required in hazard communication and initiate carefully established risk notification.

The gentleman's concern apparently rests on this stress issue which we do indeed attempt to block off, but what we attempt to block off is only stress based on the fact of notice, not stress based on the fact of disease.

Remember that this is a very very serious problem in workers' compensation. Mr. Chairman, 27 States now allow for compensation based on stress, 15 precent of all workers' compensation claims paid out in the last couple of years in the 27 States that allow this have been based on stress related claims.

□ 1545

Now should the employer be responsible for workers compensation based on stress that the communication that "you were at risk" does when you are

going to be in instances, possibly, very possibly communicating with hundreds of thousands of workers for every worker who in fact has a real disease and a physiological basis for a claim. There is the issue.

Mr. BERMAN. Mr. Chairman, will the gentleman yield for a clarification?

Mr. HENRY. I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I appreciate what the gentleman is saying. That is a very different provision than the one that has been referred to.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

Mr. BERMAN. Mr. Chairman, will the gentleman continue to yield?

Mr. HENRY. I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding further.

Mr. Chairman, the position the gentleman articulates that all he is seeking to do is not allow it to be a cause of action in a State court for distress that one gets from the notification that he was working in a place where he had a high risk of suffering from an occupational disease is a very different provision than the one that is written in here. I would suggest that somewhere in the drafting of this there was the intent, it is very clear, to wipe out the ability of individuals who learned about occupational diseases because of the notice to bring claims for emotional injury, for stress and if the employer—and in some States you have laws which say where—an employer willfully, intentionally, consciously, egregiously subjects his employees to hazardous situations, he is subject to punitive damages, you wiped that out as well. If that is not what is intended, that is very nice to know except a very clear and unambiguous reading of the language is to the contrary.

Then the gentleman is also saying—I would like to add just this one last thing and then I will sit down—what that does I think gets to the heart of what the liability concern is by the opponents of the bill and supporters of the amendment. You and the proponents of the substitute are nervous about people who do not now know that their disease, their malady, their perhaps life-threatening concern is occupationally related, will get notice of this and will seek the remedies that the law already gives them. I understand that concern. But surely in the balance of what we are trying to obtain with workers compensation laws and OSHA requirements, we want people who suffer these injuries to get the compensation, the health care, the replacement for wage loss that they are now suffering.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(On request of Mr. JEFFORDS and by unanimous consent, Mr. HENRY was allowed to proceed for 1 additional minute.)

Mr. JEFFORDS. I just want to say that we apparently are doing nothing that the committee itself did not intend to do with respect to stress claims. Let me read to you from the committee report on page 15, the bottom of the fourth paragraph: "Thus, for example, claims seeking compensation for stress, fear of disease, or emotional harm arising from the notification process would be barred."

That is the committee report on the bill.

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

Mr. HENRY. I would be pleased to yield to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. I thank the gentleman for yielding.

Attempting to mesh stress claims and the rest of the bill is just not a legitimate approach because I will put you to the language on page 15, line 23. It says, "Any claim," "No person may bring any claim for punitive and other noncompensatory damages." It is the section above that that deals with emotional harm and stress claims. So we are not just knocking out the ability to deal with punitive damages on stress claims; any claim would be knocked out.

Mr. JEFFORDS. Well, turn the page.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has again expired.

By unanimous consent Mr. HENRY was allowed to proceed for 2 additional minutes.)

Mr. FLORIO. Mr. Chairman, will the gentleman continue to yield?

Mr. HENRY. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

This is something that I just read as I was sitting here.

I turned the page, "This prohibition against any punitive damages applies whether the party bringing the claim has been directly subject to the report, finding, notice, evaluation, decision, act or omission." In a sense, what we are saying is that even if you are not informed pursuant to the bill you are wiped out from your ability to bring a claim under the State law that exists right now. That is something that is indefensible. I gave you more credit, I gave the proponents of the amendment more credit than was due when I said before they were giving more rights to those who were informed than those who were not informed. I apologize to the House. You were giving no rights to anybody. You were knocking out the rights to bring punitive damage claims for anyone whether they were informed about the situation or even if they are not informed, they are precluded.

Mr. JEFFORDS. It does not say that and the gentleman knows it does not say that. It says, "Based upon the material in the report supplied," which is in the report supplied, if they have other medical evidence that they have that can demonstrate that they are entitled to a claim, they are entitled to a claim.

Mr. FLORIO. May I ask the gentleman where it says that.

Mr. JEFFORDS. But you cannot use the notice procedure to do that for you. You cannot just let the Federal Government do your work for you as a lawyer. It means that if there is evidence there, if there is a damage and you can show it from the records of the business that there was an exposure, you have a case. But you cannot go and use the notice or the basis of the claims—rather the studies that were done to demonstrate that notice ought to be given as part of your case. But if you can show exposure, if you can show the chemical was there, if you can show that you were in the business and if you can show you have a disease related to it you are open to any kind of claim you want to make under existing law. And that is not barred, and it is incorrect to say that it is.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

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

Mr. ARMEY. I yield to the gentleman from Minnesota.

Mr. STANGELAND. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the Henry-Jeffords amendment.

Mr. Chairman, it is a given fact that employees exposed to known hazardous substances in the workplace should be so notified, and that all precautions should be taken to reduce any such hazard. In fact, this is so taken for granted that the Occupational Safety and Health Administration already has a program to notify individuals of hazards.

I happen to represent some of America's finest farmers. Farmers who have suffered greatly, but are now beginning to see an end to the tough times that have hit U.S. agriculture. However, unless the Congress wants to send many of our farmers back to the days of deep recession we should vote down H.R. 162.

Virtually every sector of agriculture would be affected by this bill. Just about every chemical now regulated by FIFRA could trigger notification, as could the dust produced in cotton, grain, forestry, and other operations. The repetitive motion in a poultry processing plant or

a slaughterhouse could give rise to notification, as could just about any kind of field work. And there is no limit to how far back the Government could look. Notices could even go out on substances or processes that are no longer in use.

Employers must bear the cost of medical monitoring if they are responsible for any fraction of the exposure giving rise to the notice. And the employee's doctor, subject to a second opinion, can require that the employee be transferred to another job. If no such job is available, the employer must provide a year's paid leave to the employee.

The liability expenses could be tremendous. In the one pilot project where the Federal Government notified some 800 workers of a nearly bankrupt company, some $335 million in claims were filed. While most of the claims were settled or dismissed, the transaction costs were substantial and continue today as the issue of insurance coverage is still in the courts some eight years later.

Mr. Chairman, everyone agrees that the rights of employees should be protected. But, clearly, Congress should not be in the business of creating a duplicative and costly Federal program that would harm U.S. agriculture and other small business. The High Risk Occupational Disease Notification and Prevention Act should be defeated.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding and I rise in support of the amendment and in opposition to H.R. 162.

Mr. Chairman, I support the amendment because it strengthens the notification and training requirements in current law and therefore better protects current employees. It also begins the very important business of retrospective notification of people who have in the workplace been exposed to hazardous substances. But there are two things this bill does that have not been sufficiently discussed in my estimation and cause me great concern.

First of all, the bill provides new benefits to workers who are neither sick nor injured. It provides better benefits to people who have been merely exposed than to workers who have been demonstrably injured or sick or laid off. Of course a physician must recommend that an employee's job be changed. But under today's circumstances I ask you what physician in his right mind who has a person come to him and say, "I have received this notice, I am exposed, I am working, don't you think I ought to change my job so I am no longer exposed?"

What physician under today's circumstances would recommend, possibly, anything other than that job be changed?

If that employer cannot change that person's job and pay him the same amount and provide him the same benefits, then that employer must provide him 1 year's salary and benefits. Now nowhere in current law for unemployed people, for disabled people do we carte blanche provide a year's salary and benefits. And this is for someone who has merely been exposed without any evidence of damage through that exposure to their health.

This remarkable benefit that creates such a disparity now in our law in terms of access for injured parties disturbs me greatly and is an indication, I believe, that this issue is not thoroughly thought out and not one we should be acting on today.

It is one of the reasons I support the substitute.

But the second concern that I have is equally important. I have fought on this floor many, many times for buy American protections, for trade law reform, for all kinds of things that I think are essential to preserving basic manufacturing in America and to help basic manufacturing in America become competitive or retain, where it has some competitiveness, those advantages.

This bill will levy a very heavy penalty on all the manufacturers in America because who is going to be notified under this bill? Where are the list of employees that will receive notification of risk from the Federal Government? They do not exist. They are not anywhere. The Government does not have them and the private sector does not have them.

Who has the very best lists of former employees? This bill requires notification of employees who have been exposed to a certain kind of substance. There are no lists of employees who have been exposed to a certain kind of substance. We do not have lists of past employees of the businesses in America anywhere in our Federal Government. We certainly cannot differentiate on those lists between those people who worked in the front office and those people who worked on the floor, those people who worked in one of the manufacturing facilities of a major manufacturer versus those people who worked in another facility where they did not use the material that is now a source of concern to us.

So in fact there are no lists through which people can be notified of exposure.

The CHAIRMAN. The time of the gentleman from Texas [Mr. ARMEY] has expired.

Mrs. JOHNSON of Connecticut. Will the gentleman yield further?

Mr. ARMEY. I yield to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding further.

Now if we use existing list capability in our society, without question we will be notifying the former employees of the most heavily—we will be notifying the employees of those companies that have had retirement benefits for the longest period of time. Those are primarily the unionized manufacturers of the Northeast. Consequently this bill will impose a burden on the unionized manufacturers of the Northeast and Midwest that is considerably heavier than any burden that might be imposed on manufacturers in the rest of the Nation, much bigger than any burden that might be imposed on any small manufacturers who had no retirement plans and therefore have no records of past employees and it will impose absolutely zero burden on Toyota's new car manufacturing plant or FHE's bearing plant or any of the foreign manufacturers who have built plants in America to compete with America's essential industrial industry manufacturers in America.

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

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

Mr. RITTER. I thank the gentleman for yielding.

Mr. Chairman, the gentlewoman makes a very important point. Foreign manufacturers, not just new ones here in the U.S. but foreign manufacturers abroad are going to reap great competitive advantage from this effort. The gentlewoman talked about America's basic industries, industries with lots of retirees. We are talking about the U.S. steel industry. The U.S. steel industry, the American Iron and Steel Institute has put out its overview of this bill and what it could mean and they say point blank it is a catastrophe. They talk about a cost of $1.5 billion to somehow meet the requirements of this bill because of all those retirees out there, because every major manufacturer in this country is a chemical industry.

Mr. ARMEY. Mr. Chairman, if I could reclaim my time.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. ARMEY was allowed to proceed for 5 additional minutes.)

Mr. ARMEY. Mr. Chairman, this has been a good debate and I did want to make my points. You know, as a member of the Committee on Education and Labor, we have seen a great many pieces of legislation coming before us this year. I count eight bills in all that have been before the committee that are endorsed by organized labor, indeed pushed by organized labor and almost without exception for each of these eight pieces of legislation what we find is something that was running contradictory to two of the major concerns of the American business community as it affects that community's ability to provide jobs for the American working men and women. And those two concerns are, first, litigation; this Nation is falling

under a storm of legal papers. We are proving that American business cannot compete with Japanese engineers when they are drowning in a sea of legal papers provided by American lawyers.

□ 1600

And this bill here intends again to create that sea all over again, a whole new realm of litigation, and we are talking here about a pound of cure applied against an ounce of need.

Yes, we know there is a need, and we do not want to deny that this is a serious concern. But this bill does not respond to the needs of the working men and women of America to be safe from occupational hazard. It responds to the needs of the lawyers of America to live comfortably off the backs of the working men and women.

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

Mr. ARMEY. I am happy to yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I would like to state that I support what the gentleman is saying. I want to make clear that the American Iron and Steel Institute in its report, summing up some $1.5 billion in costs from this bill, states that the liability exposure, which is uncertain and unknown, is not part of the $1.5 billion. They are talking about $47 million annually for complete medical examinations in connection with monitoring, $358 million for the costs associated with removal from one position to another for alleged medical reasons, and attendant wage rate retention, and $1.7 billion as a conservative estimate of the potential for workers' compensation and tort exposure for claims and unknown costs for the legal defense of the massive numbers of worker's compensation and tort claims.

I do not have to tell my colleagues that the American steel industry is hanging on by its fingernails, and that anything like this could shock it into oblivion.

Mr. ARMEY. Mr. Chairman, may I reclaim my time?

Mr. RITTER. I happen to represent Bethlehem, PA, and I do not want to see the loss of the U.S. steel industry.

Mr. ARMEY. Mr. Chairman, if I may reclaim my time, let me say that I thank the gentleman for his remarks, because that is my second point. We are trying to be competitive in a world economy, and this bill is going to destroy jobs and, in particular, manufacturing jobs, and it will do so, as the gentleman mentioned earlier, by adding a margin of costs that shuts down firms. These are the facts of the matter.

The gentleman from Michigan [Mr. HENRY] and the gentleman from Vermont [Mr. JEFFORDS] have studied this issue in great detail. They are accurate in their presentation of the case. They have presented an alternative to H.R. 162 that we should support. In a responsible way, we can provide an ounce of prevention for those occupational diseases and hazards that people may encounter rather than to beat American business down, beat down the employment level for American men and women, take away jobs, and destroy them with this excessive bill, which is a pound of cure for the ills of the AFL-CIO and its failing membership and the American legal profession in its greedy attempt to drum up business for itself.

We have seen this already today. We have examined it. Here I have a brochure put out by the Occupational and Health Legal Rights Foundation of the AFL-CIO. In anticipation of this law, they sent out a brochure, and that says, "Find out how to take your occupational disease claim to court." They are already standing in line.

We had a tragic accident not too long ago at Dallas-Fort Worth International Airport in which many lives were lost. The most tragic thing, in my estimation, was the pathetic example of greed that I saw when each and every hotel in the area was filled within hours with lawyers. We had the example of a priest in Detroit. This was a person who dressed himself up as a priest in Detroit and who masqueraded in Detroit to identify the families of victims for lawyers.

The CHAIRMAN. The time of the gentleman from Texas [Mr. ARMEY] has again expired.

(On request of Mr. RITTER, and by unanimous consent, Mr. ARMEY was allowed to proceed for 2 additional minutes.)

Mr. ARMEY. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. RITTER], and I will yield to him in a moment.

Mr. Chairman, let me say to the Members, if they believe in protecting the working men and women of America from occupational disease and hazard, if they want to find a way to remove the hazard before the fact, then they should vote for the Jeffords-Henry substitute. If they believe in burying America's competitive ability deeper under a sea of legal paper for the benefit of the unions and lawyers and in disregard of the rights of the men and women of America to keep, hold, and have jobs, then they should vote for H.R. 162. The choice is very clear.

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

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

Mr. ARMEY. I am happy to yield first to the gentleman from Illinois.

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

Mr. Chairman, I rise in support of the Henry amendment and in opposition to the bill.

Mr. Chairman, I rise today in support of the Armey substitute and opposition to H.R. 162, the High Risk Occupational Disease Notification Act of 1987 and particularly to the liability nighmare it would create

At a time when Congress should be trying to stop the liability explosion, it instead considers legislation that, if passed, would fan the flames.

Proponents of this bill claim it is liability neutral and point to the provision that makes Cabinet Secretaries, department officers and employees of the Federal Government immune from any action seeking monetary awards arising out of an act or omission in performance of their duties that is in violation of this bill. What they fail to point out is that the Federal official can be held liable if it is determined that the act or omission was a "knowing and willful" violation of the act.

Mr. Chairman, this "knowing and willful" standard is a prescription for disaster in a system where lawsuits are routinely brought against individuals for the most tenuous connection to the actual incident of wrongdoing. The window of opportunity this qualified immunity creates would surely be abused and exploited, forcing Federal officials to waste valuable time and taxpayer money defending themselves in a court of law while real hazardous notification goes undone.

The larger liability problem lies in the thousands of needless lawsuits that will be brought as a result of notification by the Government that a worker is at risk of disease. Proponents of this bill argue that pilot notification projects have not resulted in huge awards and most cases were later dismissed. What they do not consider is the cost incurred by small businessmen defending themselves against suits and the strain these suits have on an already overburdened court system.

Mr. Chairman, the bill presented today is duplicitous in that notification standards already exist and are enforced. It is court-prohibitive and anticompetitive, and it would needlessly alarm thousands of workers who are not at risk. But perhaps of even greater importance is the adverse impact this legislation would have on the liability explosion that is burdening our society so heavily, from businesses and professions, to local governments and volunteers.

Mr. ARMEY. I am happy now to yield to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I would just for a moment take issue. I do not think this bill is here for the benefit of people who work in labor unions. I frankly think that people who work in labor unions are going to be hurt when their employers at the margin have to put the kind of funds and investments into litigation and legal fees that will be necessary in handling this new liability explosion. That is where union members are going to be hurt.

Mr. ARMEY. Mr. Chairman, the gentleman is absolutely right. Union members, nonunion members, youngsters trying to get into the world of work, people who work with their

hands for a living in manufacturing, all the American people who desperately need their jobs and cherish their jobs will be hurt. Union bosses will benefit. That is a substantial difference.

Mr. Chairman, I say to this body that if the leaders of American unions will not represent their workers and insist on pushing this kind of legislation which will steal away their jobs, then we have a responsibility to represent the working men and women of America by voting for the Jeffords substitute.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Jeffords amendment and in support of H.R. 162.

Mr. Chairman, I would just like to respond to several issues that were mentioned. Frankly, the moment of truth is here. If we vote for the Jeffords amendment, in my judgment we would gut the bill. We are really at a point where we are talking about the productivity and the morale and, most importantly, the safety of the American workplace, and we are talking about the majority of Americans of working age in this country who ought to be concerned about the risks involved in their working environment.

Mr. Chairman, I heard one of my distinguished colleagues, one who is a good friend of mine, indicate that it is almost impossible to do studies, and so on. Well, the National Cancer Institute in 1979 or 1980 was so concerned about the environment of the American worker that they did a study, and they were allowed to conduct the study by using the Social Security numbers of American workers. They did the study and the polling through the distribution of Social Security numbers and checks from our own administration. They did a study, which is a simple thing to do, asking individual workers in this country whether or not they ever worked in an environment where asbestos was being either produced or used, and indeed they found out through the study, through the fact that many people responded to this study, that they were affected. Many lives were saved by this study.

Frankly, this is really what the bill before us is all about. I think it is high time that workers became aware of the inherent risks of their employment. For years American workers in industries, especially heavy industries, have been repeatedly exposed to processes and substances which caused terminal illnesses.

If you are from the Midwest of this wonderful, great country of ours, you must know that the Great Lakes region has the highest cancer rate in this country. Why is that? One reason why, I am positive, is that workers were exposed to hazardous conditions in the workplace and they were not corrected. The workers were not even warned about it. All we have to do is take a look at the deaths and sicknesses suffered by asbestos workers, among others. Substantial evidence has shown that many companies unfortunately were aware of the dangers associated with exposure to asbestos but failed to inform the workers of their risk. Certainly they could have provided safeguards.

So the issue is not, as my friend, the gentleman from Texas, said, between having jobs and not having jobs. The issue is that we want to keep the jobs for Americans, but we love the American worker and we believe that the American worker cannot work in an environment that prohibits their productivity, that prohibits their morale because the environment they know is not safe.

So this bill is a reasonable compromise to say that what we ought to be doing is to take a look at the potential risk and simply notify the workers that this environment may affect their health, and hopefully the companies, in good faith, as they have done in the past, would correct the environment, and then not only would the morale and productivity of the American worker be improved but the economy of this country would be improved.

So it is really important, despite the fact that I have the greatest respect for my friend, the gentleman from Vermont [Mr. JEFFORDS], and I think it is critical to the passage of this bill that we vote against this amendment. It comes up right up front, and we are called to the task of saying that we want to defend the rights of American workers and we care about their health. That is the issue. Cancer is a hazardous problem that affects so many people, and we know that we can now cure cancer and arrest cancer if we know about it when it is in its infant stages. So why not tell people? That is what we are saying. It is a simple, reasonable approach.

So, Mr. Chairman, I want to compliment the subcommittee chairman and the members of the committee who had the courage to speak out and support this bill. I honestly think that the wrong approach is to water down the bill and really make it thoroughly meaningless. So I hope we will vote against the Jeffords amendment.

Mr. JEFFORDS. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The Chair will inquire, the gentleman has already spoken, has he not?

Mr. JEFFORDS. Mr. Chairman, I spoke when I introduced the amendment. I believe I have a right to strike the last word to close debate.

The CHAIRMAN. Without objection, the gentleman from Vermont [Mr. JEFFORDS] is recognized for 5 minutes.

There was no objection.

Mr. JEFFORDS. Mr. Chairman, we have had a long and hard debate here. I think it is now time to look back and try to talk about the basics here on each side and see what we are trying to accomplish.

There is no dispute that we ought to notify former workers. The question is how. There is no dispute that we ought to try and provide some sort of medical help. The question is how.

There is some dispute as to whether or not more ought to be done at this particular time in the prevention role. We believe that the substitute, which does a great deal to try to expand the protection of existing workers and prevent the kind of problems which we have been talking about today, is much superior in that regard.

We do a number of things in our amendment which help the present workers. We expand the coverage under OSHA to take in other areas, to include thousands, if not millions, of workers in the transportation and the mining industries. We also upgrade the Z tables, that is, those tables which were established some time ago which have not been upgraded, a list of those hazardous chemicals about which we are concerned here today. We give the Secretary authority to do that. There are only 400 on that list today, and there could be thousands on there after that is done. We employ training to ensure that the workers in the plant and the employers know how to deal with the problems of occupational diseases and their causes. The Secretary is required to recommend monitoring when it is essential, depending on the type of exposure. We create the Office of Hazard Communications in order to deal with a serious problem and ensure that we provide maximum protection to our workers, present and future.

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We do a great deal. H.R. 162, all it does is by threat of litigation ask the employer to be so scared that he might do something.

We require him to do it under the regulatory process. We also are concerned about the prior workers, and our proposal has significant advantages over notification. That is the important thing to me.

There has been a lot of talk about things which are really irrelevant to the key issues. We say that rather than use the model which was a disaster, the Augusta experience, and model the whole Federal program, and that program cannot go into effect for 2½ years, why not take that group of workers, we already know who they are, some hundred thousand, that we know the kind of exposure they have had, we know that they are being subjected to possible disease, notify them

and do it in a way that will be responsible with the employers concerned and with the workers.

Help them find out whether or not they do have a problem. We would have those notices out in a matter of months. We have to wait 2½ years under this other bill before the first notice goes out with all of the new bureaucracies created and the unnecessary steps which have to be gone through, in view of the NIOSH studies which have already been done.

This substitute has the tremendous support of the administration. Why not vote for something that is reasonable and will get enacted into law and not something that will be vetoed?

We believe that the substitute does all of the things that H.R. 162 is expected to do, except create the tremendous litigation problems which we are sure that H.R. 162 will do following the model that was used in Augusta, GA.

I want to close by letting the gentleman from Michigan [Mr. HENRY], who was such a substantial help in modeling this substitute which does a creditable job to all of the Members in this body in knowing how the process ought to work, speak.

All of the witnesses that testified against H.R. 162 that have spoken that way would support our substitute.

Mr. Chairman, I yield to the gentleman from Michigan [Mr. HENRY].

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

Mr. Chairman, I express my appreciation to the genteman from Vermont, and also my appreciation to the gentleman from Pennsylvania [Mr. GAYDOS], the distinguished ranking member on the subcommittee whom I have gotten to know and appreciate during our debate, and in working on this issue.

In closing, some very critical issues very quickly, our bill indeed addresses the very problem which the gentleman from New Jersey [Mr. Florio] raised in terms of addressing the problem which ultimately creates the demand for risk notification.

Our expansion of the hazard communications standard would incorporate and protect roughly 13 million additional workers above and beyond those presently under the OSHA statute.

No. 2, we not only broaden the population which is put under the protections of the OSHA standard, but we significantly increase the degree of protection that broadened that universe by updating the Z Tables for over 400 substances.

The CHAIRMAN. The time of the gentleman from Vermont [Mr. JEFFORDS] has expired.

(By unanimous consent, Mr. JEFFORDS was allowed to proceed for 1 additional minute.)

Mr. HENRY. Mr. Chairman, will the gentleman yield further?

Mr. JEFFORDS. I yield to the gentleman from Michigan.

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

In the eyes of the Government, it costs less. In the eyes of the business community, it costs less.

Our substitute does not threaten American competitiveness or open up needless liability exposures; and it also establishes a principle of immediate implementation of a focused risk notification system that will reach more workers more quickly than the committee bill.

I ask the Members to vote for the substitute.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of H.R. 162, and in opposition to the Jeffords-Henry substitute.

Mr. Chairman, disease and disability caused by substances found in the industrial and commercial workplace result in some 100,000 deaths and disable up to 400,000 workers every year in the workplaces of this country. Each year, according to U.S. Labor Department estimates, these deaths and disabilities cost American taxpayers $5.4 billion in Social Security disability, Medicaid, and Medicare payments. Similarly high costs are incurred by American businesses: up to $4.3 billion annually.

H.R. 162 will help hundreds of thousands of people unknowingly at high risk of cancer, lung disease, brain and nerve disorders, and other diseases seek medical help, change their health habits, avoid exposure to workplace hazards, and in many cases, prevent the progression of diseases that might otherwise disable or kill them. It is designed to save some of those lives and lower social costs; it will effectively pay for itself. I believe the measure deserves the overwhelming support of this body.

As a young person growing up on Minnesota's Mesabi iron ore mining range, I learned firsthand the importance of health and safety protections for miners. Workers in my father's generation were not informed, either by their employer or by the Federal Government, of the health risks to which they were exposed each day as they went to work either in the underground mines, or in the open pits, usually for their entire working lives. Today, we will vote on a measure that will provide the workers of our generation an effective notification system. The time is long overdue to assure, in law, the availability of such information to American working men and women—I urge my colleagues to support the bill and to oppose the various weakening amendments, especially the pending Republican substitute.

H.R. 162 will establish a Risk Assessment Board to identify workers at high risk of developing occupationally related diseases. The nine-member Board will be chaired by the Director of the National Institute for Occupational Safety and Health, a division of NIH, and will consist of governmental and private representatives: occupational health physicians, toxicologists, epidemiologists, biostatisticians, and industrial hygienists.

The members of the Board will indentify workers at risk, based on statistically significant evidence from clinical, epidemiologic, or toxicologic studies indicating the extent of the increased risk, the health consequences of notifying or failing to notify a population at risk, and the extent to which that risk has been reduced as a result of the enactment of occupational health standards. After those workers have been identified, NIOSH will notify them of their increased risk of developing an occupationally related disease. The notice will also encourage them to enter a medical monitoring program which would permit detection of developing diseases at their earliest stages, when the cost of treatment is lowest and the chances for success are high.

Over the past several months, some business groups have made astronomical claims about the cost of this new medical monitoring program. I believe the $25 million budget provided for the monitoring programs in this legislation is both carefully thought out and conservative. It provides sufficient resources to begin this program which NIOSH officials have estimated could notify over 300,000 workers per year of potential workplace health hazards and provide guidance on how to address those hazards. It is a medically sound and scientifically workable compromise proposal which balances the concerns of the manufacturing and chemical industries while working to preserve the safety and health of American workers. The health and disability costs avoided as a result of notification and preventive action could add up to many times more than the small amount we would be investing in the program.

A recent General Accounting Office study on the bill found no basis for concluding that it would, as some of the our colleagues who oppose the bill have claimed, impose new liability burdens on business beyond those already existing under current law. The bill is absolutely neutral on the question of liability. Its sole intent is to serve as a preventive public health measure, not as a means of expanding employer liabilities.

In addition to the dozens of endorsements by public interest groups, labor and health organizations, H.R. 162 is also supported by large and significant sectors of the business community, including such giants as IBM, Eastman Kodak, the Chemical Manufacturers Association, the National Paints and Coatings Association, Ciba-Geigy, Occidental Petroleum, and many other major oil, chemical and manufacturing industry leaders. It is a durable and effective compromise, and I urge my colleagues to join me in voting "aye."

Mr. DREIER of California. Mr. Chairman, I rise today in opposition to H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987, and in support of the Jeffords-Henry substitute. I share my colleagues support for enhancing the health and safety of American workers by alerting them to the potentially harmful effects of workplace exposures to hazardous substances. I believe that the Jeffords-Henry substitute addresses this objective far more efficiently and with

fewer costs to employers, employees, and the Federal Government.

The Jeffords-Henry substitute addresses safety in the workplace by preventing exposure to hazardous substances. This is accomplished by strengthening the existing Federal hazard communication standard. Administered by OSHA, this standard requires that employers train their employees in the safe handling of hazardous chemicals; label containers holding hazardous materials; and that the manufacturer create a material safety data sheet for all hazardous substances. The substitute requires that current efforts to expand the hazard communication standard to nonmanufacturing sectors be accomplished within 1 year; this will allow OSHA to reach tens of millions of workers, far more than could be reached by an individual notification program. However, unlike H.R. 162, the Jeffords-Henry substitute will not impose costly and onerous burdens on small businesses.

As a member of the House Small Business Committee, I recently participated in a hearing on the potential for risk notification legislation to generate substantial litigation by stimulating liability claims against employers. While proponents of H.R. 162 argue that the bill is liability neutral, the evidence disputes this claim. H.R. 162 could potentially open a Pandora's box of personal injury and product liability suits against employers, manufacturers and distributors of the products to which workers may have been exposed. As we all know from numerous conversations with small business constituents, the current liability insurance crisis threatens the existence of many small firms. What would happen to many marginal firms if the situation worsened?

While many of these claims against employers eventually might be denied, this fact does not mitigate the costs of these claims on employers and the civil justice system. It is generally accepted that H.R. 162 would place a disproportionate financial burden on small firms; businesses which are the leaders in job-creation in America today. How many new jobs would be created, or existing jobs retained, if small firms are forced to focus their attention on costly lawsuits?

Since many questions remain over the likely negative effects of H.R. 162 on businesses—especially small businesses—consumers, employees, and the Federal Government, I believe the responsible approach to insuring safety in the workplace is contained in the Jeffords-Henry substitute.

Mr. DAUB. Mr. Chairman, High Risk Occupational Disease Notification Act, H.R. 162, will harm small business and farmers. Congress should not pass this shortsighted legislation.

Businesses, large and small, and farmers cannot afford the onerous burdens that this legislation will mandate. Medical monitoring and evaluation and medical removal protection would force employers to either reduce wages or layoff employees in order to stay alive in a competitive environment. The end result would be business failure, farm foreclosure, and market unrest.

Because of increased litigation, court cases would steal valuable time from hardworking businesspeople and farmers and their insurance costs would skyrocket.

H.R. 162 duplicates efforts already undertaken by the Occupational Safety and Health Act and further complicates the field of bureaucracy the farmers and businessperson must already plough.

Although I am oppossed to the High Risk Occupational Disease Notification Act, I am concerned about a safe and health workplace. Therefore, I support the Jeffords-Henry alternative to H.R. 162.

The Jeffords-Henry alternative is preventative in nature, will not increase employer liability, provides a mechanism to effectively notify only high risk employees, and strengthens existing programs without adding another layer to the Federal bureaucracy.

Unlike the Occupational Disease Notification Act, the Jeffords-Henry alternative is farsighted and will improve the health and safety of the American workforce without jeapordizing the existence of small business and the farmer.

Mr. HEFLEY. Mr. Chairman, I rise today in opposition to H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987, and in support of the Jeffords-Henry substitute.

While H.R. 162 may sound appealing on the surface to many people, the overall repercussions will be devastating to every segment of the business community. Not only will it create a new and unnecessary bureaucracy, but it will drive up insurance costs and open the door for billions of dollars in liability suits.

The existing Occupational Safety and Health Administration's [OSHA] Hazard Communication Standard [HAZCOM] already provides a mechanism for employers to notify employees of hazards in the workplace, and requires that workers be trained in handling those hazards. If Congress is concerned with OSHA's performance, then the emphasis should be placed on updating and improving OSHA's safety standards and enforcement actions.

The costs to business employers for health insurance are likely to increase significantly because the bill mandates that certain types of coverage, screening, and treatment be provided by an employer-sponsored health plan. In addition, the legislation goes far beyond being a simple notification bill by requiring, if necessary, that an employee be transferred to a less hazardous job or even be guaranteed an income by the employer for up to 1 year if no transfer opportunities exist. For small businesses, which do not have the range of opportunities that large corporations have, this will be a most burdensome cost.

Passage of this bill would result in more litigation being filed under existing tort causes of action because employees' awareness of potential litigation to receive compensation for a preceived injury will be increased. We do know that claims for stress-related injury, already the fastest growing type of workers compensation claim, will likely increase dramatically after individuals receive a notice from the Government indicating they are at risk. As a matter of fact, from 1978 to 1981 NIOSH conducted a pilot study on 800 employees who were notified that their risk of bladder cancer may have been increased due to possible on-the-job exposure to a specific chemical. After notification, over $335 million in lawsuits were filed against the already bankrupt company, most of them by individuals that showed no symptoms of the disease.

I believe that H.R. 162, if passed, would create a new and costly Federal bureaucracy, be most burdensome and crippling to small businesses, and drastically increase litigation. Unfortunately, it will not protect workers from occupational disease, but only notify them after the exposure.

On the other hand, the Jeffords-Henry substitute is far superior to H.R. 162 because it is based on "hazard prevention" rather than "risk notification." For this reason, the Jeffords-Henry substitute will reduce harmful exposures which will prevent occupational diseases.

Therefore, I urge my colleagues to vote with me in support of the Jeffords-Henry substitute. And if this measure fails, I urge my colleagues to oppose H.R. 162.

Mr. BROWN of California. Mr. Chairman, I would like to make some observations about the amendments we are considering which would make certain exceptions to the coverage of this bill for agricultural producers. I have heard a number of arguments in recent days as to why the program envisioned in H.R. 162 would be inappropriate to agricultural production operations and to the migrant and seasonal class of farmworkers. To some extent, I agree with these agruments, having been motivated myself to cosponsor this bill with the more traditional industrial and service worker's health in mind.

But after struggling with ways to improve the programs at the Environmental Protection Agency [EPA] designed to protect farm workers from pesticide exposure, I must express some dissatisfaction with these amendments to exclude farm workers. EPA has had a farmworker protection program in place for some time and has made decisions on the use of a number of pesticides based upon risk to farm workers. However, I consider EPA's program to be inadequate to the task of determining the broad health and safety effects upon agricultural workers. It is this broad focus which H.R. 162 attempts to put in place for all workers.

To EPA's credit, they are starting a number of epidemiological studies on farm workers and this broadly focused information may be available to us in coming years. They are also in the process of developing updated worker protection regulations on their own, the result of negotiations with a number of affected parties. It is my hope that we can add to this effort with a legislative mandate to be included in amendments to the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA], the authorizing statute for the pesticide regulatory program at EPA. It is through this pesticide-specific program at EPA, conducted in coordination with appropriate worker protection programs at the Occupational Safety and Health Administration [OSHA], that we can more appropriately provide tailored protection to agricultural workers.

But I will not wait long for this overdue effort. It is no secret that OSHA has been less than effective in recent years and in one instance has impeded the protection of workers

from pesticides. And EPA is just now getting into the picture in a comprehensive fashion.

While I understand and agree with the concerns of agricultural producers who object to inclusion of their operations under H.R. 162, the time has come for some increased activity to assess and deal with health and safety problems which may be caused by acricultural chemicals. Some of the groups who Members have heard from in recent days are the same groups who participated in the negotiations process at EPA which will result in the regulations expected soon. Many of these groups also participated in the negotiations on the FIFRA amendments in the bill pending before the committee, H.R. 2463. I hope that these efforts succeed, and I pledge to make every effort to assure that success. If they do not succeed we will all be in a jam.

I will close by issuing a warning that the epidemiological work being done by EPA and the National Cancer Institute will undoubtedly show some negative effects upon our farm production from farm chemicals. This is due to the fact that we have not engaged in a comprehensive study of this population before. If we do not have an effective program in place before this data is compiled, we will be forced to put one in place that, in all likelihood, will impose an even greater burden upon the farm sector than any of the proposals before us today.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Vermont [Mr. JEFFORDS].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 191, noes 234, not voting 8, as follows:

[Roll No. 354]

AYES—191

Andrews
Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Beilenson
Bennett
Bereuter
Bevill
Bilirakis
Bliley
Boehlert
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Chapman
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Daub
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Fish
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Gradison
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hatcher
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Jones (TN)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCollum
McCurdy
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Morella
Morrison (WA)
Myers
Neal
Nelson
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Pickle
Porter
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Skeen
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stratton
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Upton
Vander Jagt
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—234

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Bentley
Berman
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Daniel
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Harris
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Hughes
Jacobs
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
McCloskey
McDade
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Molinari
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Perkins
Pickett
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Savage
Sawyer
Schroeder
Schumer
Sharp
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Stump
Swift
Synar
Tallon
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—8

Biaggi
Gephardt
Kemp
Livingston
Pepper
Roemer
Scheuer
Tauzin

□ 1630

The Clerk announced the following pairs:

On this vote:

Mr. Kemp for, with Mr. Gephardt against.

Mr. Roemer for, with Mr. Pepper against.

Messrs. GOODLING, NICHOLS, and JENKINS changed their votes from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will designate section 2.

Mr. GAYDOS. Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

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

Mr. JEFFORDS. Reserving the right to object, Mr. Chairman, as I understand it, this is an open rule. I believe that it is the wish of both sides that Members ought to have an opportunity to offer amendments and have those amendments debated and that there will not be any real attempt to cut off debate. Is that understanding correct?

Mr. GAYDOS. Mr. Chairman, if the gentleman will yield, I have no intention to cut any debate off at this time.

Mr. JEFFORDS. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) potentially hazardous substances, agents, and processes are in wide industrial and commercial use in the United States;

(2) during the past two decades, considerable scientific progress has been made in—

(A) the identification of hazardous substances, agents, and processes;

(B) the identification of medical problems associated with exposure to such substances, agents, and processes; and

(C) the diagnosis and treatment of diseases related to such exposure.

(3) Progress also has been made in controlling the exposure of individuals to such substances, agents, and processes;

(4) despite the progress described in paragraphs (2) and (3), there are significant gaps in efforts to promote the health and safety of individuals exposed to such substances, agents, and processes;

(5) a significant number of workers suffer disability or death or both from occupational diseases caused by hazardous occupational exposures;

(6) diseases caused by exposures to occupational health hazards constitute a substantial burden on interstate commerce and have an adverse effect on the public welfare;

(7) workers have a basic and fundamental right to know they have been and are being exposed to an occupational health hazard and are at risk of contracting an occupational disease;

(8) there is a period of time between exposure and the onset of disease when it often is possible to intervene medically in the biological process of disease either to prevent or, by early detection, successfully treat many disease conditions;

(9) social and family services that reinforce health promoting behavior can reduce the risk of contracting an occupational disease;

(10) identifiable occupational populations are at risk of developing diseases because of exposure to occupational health hazards;

(11) by means of established epidemiological, clinical, and toxicological studies, it is possible to define and identify very specific worker populations at risk of contracting occupational diseases;

(12) there is no established national program for identifying, notifying, counseling, and medically monitoring worker populations at risk of occupational disease;

(13) there is a lack of adequately trained health and human service professionals, as well as appropriately staffed and equipped health facilities to recognize and diagnose occupational diseases;

(14) there is a need for increased research to identify and monitor worker populations at risk of occupational disease; and

(15) through prevention and early detection of occupational disease the staggering costs of medical treatment and care in the United States can be substantially reduced.

(b) PURPOSES.—It is the purpose of this Act—

(1) to establish a Federal program to notify individual employees within populations at risk of occupationally induced disease that they are at risk because of exposure to an occupational health hazard, and to counsel them appropriately;

(2) to authorize and direct the certification of health facilities which have a primary purpose of educating, training, and advising physicians and health and social service professionals in local communities throughout the United States to recognize, diagnose, and treat occupational disease;

(3) to expand Federal research efforts to improve means of identifying and monitoring worker populations at risk of occupational disease; and

(4) to establish a set of protections prohibiting discrimination against employees on the basis of identification and notification of occupational disease risk.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) The term "employee" means—

(A) any individual currently employed by an employer, or

(B) any individual formerly employed by an employer as to whom any Federal agency maintains records pertaining to work history or the employer maintains personnel records, medical records, or exposure records.

(2) The term "employer" means any person engaged in commerce or in an industry or business affecting commerce, or any agency of Federal, State, or local government.

(3) The term "Secretary" means Secretary of Health and Human Services.

(4) The term "Institute" means the National Institute for Occupational Safety and Health.

(5) The term "Board" means the Risk Assessment Board established by section 4 of this Act.

(6) The term "occupational health hazard" means a chemical, a physical, or a biological agent, generated by or integral to the work process and found in the workplace, or an industrial or commercial process found in the workplace, for which there is statistically significant evidence, based on clinical or epidemiologic study conducted in accordance with established scientific principles, that chronic health effects have occurred in employees exposed to such agents and processes. Such term includes chemicals that are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatoxins, nephrotoxins, neurotoxins, agents that act on the hematopoietic system, and agents that damage the lungs, skin, eyes, or mucous membranes.

(7) The term "population at risk" means a class or category of employees—

(A) exposed to an occupational health hazard under working conditions (such as concentrations of exposure, or durations of exposure, or both) comparable to the clinical or epidemiologic data referred to in paragraph (6); and

(B) identified and designated as a population at risk of disease by the Board pursuant to section 4(b).

(8) The term "hazard communication standard" means the standard contained in section 1910.1200 of title 29 of the Code of Federal Regulations as in effect on January 1, 1987.

(9) The term "medical monitoring" means periodic examinations or laboratory tests to diagnose or aid in the diagnosis of a disease that has been the subject of a notification, or the appropriate type of health counseling, or both, as determined by the Board for the disease associated with the risk.

(10) The term "ethical manner" means conduct that recognizes the confidentiality of information evolving from the patient-physician relationship.

SEC. 4. RISK ASSESSMENT BOARD.

(a) ESTABLISHMENT.—(1) There is hereby established within the Department of Health and Human Services the Risk Assessment Board. The Board shall consist of 9 members, which shall include the Director of the Institute (who shall serve as chairman) and 8 members appointed by the Secretary from a list of nominees provided by the National Academy of Sciences that includes at least 3 nominees for each category of individuals required by paragraph (2). In making the appointments under this paragraph, the Secretary may request additional lists of nominees.

(2) Of the 8 members appointed by the Secretary—

(A) 4 shall be Government employees, including a board certified occupational physician, and epidemiologist, a toxicologist, and an occupational biostatistician; and

(B) 4 shall be individuals who are not Government employees, including a board certified occupational physician, an epidemiologist, an occupational health nurse, and an industrial hygienist.

(3) The members of the Board appointed by the Secretary shall be appointed for terms of 5 years except that—

(A) of members first appointed, one of the members appointed under paragraph (2)(A) and one of the members appointed under paragraph (2)(B) shall be appointed, as designated at the time of their appointment, for each of the following terms: 2 years, 3 years, 4 years, and 5 years;

(B) in the event a vacancy on the Board occurs prior to the expiration of a term, the Secretary shall ask the National Academy of Sciences to provide a list of nominees from which the Secretary shall appoint a member for the remainder of that term; and

(C) upon the expiration of their terms, members may be reappointed if their names shall appear on the lists provided by the National Academy of Sciences.

(4) The Institute shall provide full-time staff necessary to carry out the functions of the Board.

(b) FUNCTIONS.—(1) The Board shall—

(A) review pertinent medical and other scientific studies and reports concerning the incidence of disease associated with exposure to occupational health hazards;

(B) identify and designate from this review, and from field assessments where appropriate, those populations at risk of disease associated with exposure to occupational health hazards that should be notified pursuant to this Act, including the size, nature, and composition of the population to be notified;

(C) develop an appropriate form and method of notification that will be used by the Secretary, or agents of the Secretary described under section 5(g), to notify the designated populations at risk; and

(D) determine the appropriate type, if any, of medical monitoring, or beneficial health counseling, or both, for the disease associated with the risk which shall be described in the notice pursuant to section 5(c).

(2) In carrying out its responsibilities under this section, the Board shall, subject to the requirements of section 552a of title 5, United States Code, and other applicable provisions of Federal law, have access to information and data contained in the records of—

(A) any Federal agency, or State or political subdivision of a State, solely for the purpose of obtaining names, addresses, and work histories of employees subject to notification under this section;

(B) any employer insofar as Federal access is provided for under the Occupational Safety and Health Act of 1970 or the Federal Mine Safety and Health Act of 1977 or regulations promulgated pursuant thereto; and

(C) any employer insofar as such information is maintained by such employer under a State or Federal law concerning occupational safety and health matters.

(3) In identifying the populations at risk of disease, the Board shall consider the following factors based upon the best available scientific evidence:

(A) the extent of clinical and epidemiologic evidence that specific substances, agents, or processes may be a causal factor in the etiology of chronic illnesses or long-latency

diseases among employees exposed to such substances, agents, or processes in specific working conditions (such as concentrations of exposure, or durations or exposure, or both);

(B) the extent of supporting evidence from clinical, epidemiologic, or toxicologic studies that specific substances, agents, or processes may be a causal factor in the etiology of chronic illnesses or long-latency diseases among persons exposed to such substances, agents, or processes;

(C) the employees involved in particular industrial classifications and job categories who are or have been exposed to such substances, agents, or processes under working conditions (such as concentrations of exposure, or durations or exposure, or both) that may be a causal factor in the etiology of the illnesses or diseases;

(D) the extent of the increased risk of illness or disease created by the occupational health hazard alone or in combination with other factors, including (but not limited to) smoking and diet;

(E) other medical, health, and epidemiological factors, including consistency of association, specificity of association, strength of association, dose-response relationships, biological plausibility, temporal relationships, statistical significance, and the health consequence of notifying or failing to notify a population at risk; and

(F) the extent to which risk has been reduced as a result of the promulgation of an applicable occupational substance-specific health standard.

(4) In carrying out activities under this section, the Board is authorized to engage the services of experts in occupational health hazards and diseases related to those occupational health hazards.

(c) PRIORITIES.—In designating populations at risk of disease for notification, the Board shall undertake, as its first priority, to designate employee populations exposed to occupational health hazards whose members are most likely to benefit from medical monitoring, or health counseling, or both. In making this designation, the Board shall consider exposures for which there exists a permanent standard promulgated under section 6(b)(5) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 665(b)(5)), the extent of medical monitoring and surveillance already available to employee populations covered by the permanent standards, and the need to notify former employees as well as current employees.

(d) PROCEDURES.—(1) For each population designated for notification, the Board shall issue a notice of proposed findings and recommendations.

(2) The notice shall—

(A) be published in the Federal Register;

(B) set forth which classes or categories of employees are being considered for inclusion in a population at risk and the reasons for such inclusion;

(C) provide for the public to submit written views on the proposed findings and recommendations within 60 days of the notice; and

(D) provide for a hearing within 30 days after the conclusion of such 60-day period, at which the public may express views on the Board's proposed findings and recommendations.

(3) After its deliberations and the taking of public views, the Board shall issue its final findings and determinations within 60 days following the hearing. If the Board determines that a class or category of employees is a population at risk, based on the record developed pursuant to paragraph (2) of this subsection, the Board shall, within 10 days of making such a finding and determination, transmit that finding and determination to the Secretary. Such finding and determination shall require that the individuals within such a population at risk be notified under section 5 of this Act.

(4) Any aggrieved person may bring a civil action for mandamus in the appropriate United States district court if the final agency action is not completed within 160 days.

SEC. 5. EMPLOYEE NOTIFICATION AND COUNSELING.

(a) ACTIONS BY THE SECRETARY.—Upon presentation of final findings and determinations by the Board that a given class or category of employee is a population at risk of disease to be notified pursuant to this Act, the Secretary shall adopt those findings and determinations, without further notice and without public comment, unless the Secretary concludes that—

(1) procedural requirements set forth in section 4(d) are not met, or

(2) to do so will endanger the health and safety of a class or category of employees.

(b) NOTIFICATION OF POPULATION AT RISK.—(1) Upon adopting the findings and determinations of the Board that a given class or category of employee is a population at risk of disease, the Secretary shall make every reasonable effort to notify each individual within such population, and their respective employers, of that risk. The Secretary, through the Institute, shall be responsible for conducting the necessary notification, except as provided in subsection (g).

(2) In addition, the Secretary may make simultaneous use of public service announcements and other means of notification appropriate to reach the population at risk.

(3) In the case of employees for whom any exposure to the occupational health hazard occurred in the course of current employment, notification shall be transmitted by the Secretary to individual employees and to employers and be posted prominently by the employer in places at the worksite that are easily accessible to and frequented by the employees in the population at risk.

(4) The Secretary shall establish procedures for notifying persons who have been subjects of epidemiological studies demonstrating findings of increased risk of occupational disease conducted by an agency within the Department of Health and Human Services and shall require such notification procedures be included in all future epidemiological studies by such agency.

(c) CONTENTS OF NOTIFICATION.—(1) The notification under subsection (b) shall include—

(A) an identification of the occupational health hazard, including the name, composition, and properties of known chemical agents;

(B) the disease or diseases associated with exposure to the occupational health hazard, and the fact that such association pertains to classes or categories of employees;

(C) any known latency periods from time of exposure to time of clinical manifestation of the disease;

(D) counseling appropriate to the nature of the risk including, but not limited to—

(i) the advisability of initiating a personal medical monitoring program;

(ii) the most appropriate type of medical monitoring or beneficial health counseling for the disease associated with the risk;

(iii) the name and address of the nearest health center certified under this Act;

(iv) the protections for notified employees, as established under section 7 of this Act;

(v) employer responsibilities with respect to medical monitoring for notified employees, as established under section 7 of this Act; and

(vi) the telephone number of the hot line established under subsection (d) of this section.

(2) If the notification transmitted under subsection (b) concerns an occupational health hazard for which the hazard communication standard requires the preparation and use of any material safety data sheet, such notification shall include the material safety data sheet or a concise summary of the information contained in such data sheet, or both. Such summary shall be written in a manner so as to be easily understood by the average employee.

(d) TELEPHONE INFORMATION.—The Institute shall establish a telephone "hot line" for the employees notified under this section and for their personal physicians for the purpose of providing additional medical, health, scientific information concerning the nature of the risk and its associated disease.

(e) DISSEMINATION OF INFORMATION.—The Institute shall prepare and distribute other medical and health promotion materials and information on any risk subject to notification under this section and its associated disease as the Institute deems appropriate.

(f) ACCESS TO INFORMATION.—In carrying out the notification responsibilities under this section, the Secretary shall, subject to the requirements of section 552a of title 5, United States Code, and other applicable provisions of Federal law, have access to information and data contained in the records of—

(1) any Federal agency, or State or political subdivision of a State, solely for the purpose of obtaining names, addresses, and work histories of employees subject to notification under this section;

(2) any employer insofar as Federal access is provided for under the Occupational Safety and Health Act of 1970 or the Federal Mine Safety and Health Act of 1977 or regulations promulgated pursuant thereto; and

(3) any employer insofar as such information is maintained by such employer under a State or Federal law concerning occupational safety and health matters.

(g) COOPERATION WITH PRIVATE EMPLOYERS AND STATE AND LOCAL GOVERNMENTS.—(1) In carrying out the notification responsibilities under this section, the Secretary shall cooperate with private employers and State and local governments and, upon request, may certify a private employer or a State or local government to transmit notification under this section, pursuant to subsection (c) of this section and in accordance with regulations issued by the Secretary.

(2) No private employer or State or local government certified under this paragraph may receive payment for the cost of such notification from the United States, or have a right of access to Federal records for the purposes of carrying out the notification.

(h) LIABILITY.—The United States or any agency or employee thereof, including any employer or government acting pursuant to subsection (g) of this section, shall not be subjected to suit or judicial or nonjudicial proceedings of any kind that seek monetary damages with respect to or arising out of any act or omission pursuant to this Act. This subsection shall not apply to—

(1) an employee of the United States for any act or omission that is a knowing and

willful violation of a provision of this Act to the extent that Federal law otherwise authorizes suit against that individual for monetary damages; and

(2) an employer or government acting pursuant to subsection (g) of this section for any act or omission that is a knowing or reckless violation of a provision of this Act.

(i) JUDICIAL REVIEW.—(1) Any person adversely affected or aggrieved by a determination by the Board under this Act that a given class or category of employees is or is not a population at risk of disease to be notified under the Act is entitled to judicial review of that determination in the appropriate United States Court of Appeals upon a petition filed in such court by such person. Any petition filed pursuant to this section shall be filed within 30 days after the adoption of such determination by the Secretary.

(2) A copy of any petition filed under paragraph (1) shall be promptly transmitted to the Secretary by the clerk of the court. The Secretary shall file in the court, as provided in section 2112 of title 28, United States Code, the record of the proceedings of the Board on which the determination is based.

(3) The court shall set aside the determination of the Board under subsection (a) of this section if the determination is found to be—

(A) arbitrary, capricious, or an abuse of discretion;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitation;

(D) without observance of procedure required by law; or

(E) unsupported by substantial evidence on the record.

(4) The commencement of proceedings under this subsection shall not operate as a stay of the action of the Secretary to notify employees unless the court specifically orders a stay based upon a determination by the court that the complaining party is highly likely to succeed on the merits.

SEC. 6. HEALTH CENTERS; RESEARCH, TRAINING, AND EDUCATION.

(a) HEALTH CENTERS.—

(1) ESTABLISHMENT OF CENTERS.—(A) Within 90 days after the effective date of this Act, the Secretary shall establish and certify 10 health centers. The Secretary, in selecting the 10 health centers, shall choose from among the education resource centers of the Institute and similar facilities of the National Institute for Environmental Health Sciences, the National Cancer Institute, and other private and governmental organizations that apply for such designation by the Secretary. The Secretary shall consider regional distribution in selecting the 10 health centers. At a later date, but not more than 5 years after the effective date of this Act, the Secretary shall establish and certify additional health centers from among the health care facilities described in this paragraph so as to obtain no less than one center per State throughout the United States.

(B) Such centers and personnel assigned to them shall be selected on the basis of—

(i) their demonstrated ability and experience in the recognition, diagnosis, and treatment of occupationally related diseases in an ethical manner, and

(ii) their capability to offer training and assistance to physicians and health and social service professionals engaged in the management of populations and individuals at risk of occupational disease, and to fulfill other functions assigned to them under this section.

(C) Such centers shall be certified under criteria developed by the Secretary.

(2) FUNCTIONS OF CENTERS.—The centers shall—

(A) provide education, training, and technical assistance to personal physicians and health and social service professionals who serve employees notified under section 5 of this Act; and

(B) be capable, in the event that adequate facilities are not otherwise reasonably available, of providing diagnosis, medical monitoring and family services, and treatment for employees notified under section 5 of this Act.

(3) COST OF TRAINING AND EQUIPMENT.—The Secretary shall, from funds appropriated under this Act, reimburse the health centers certified under this section for the cost of developing a training program and procuring specialized equipment required under the certification criteria developed pursuant to paragraph (1) of this subsection.

(b) IMPROVED METHODS OF MONITORING AND IDENTIFICATION.—The Secretary shall, from amounts available under section 10(b) of this Act, make grants to certified health centers, schools of public health and other institutions, and organizations that meet criteria established by the Secretary to conduct research, training, and education aimed at improving the means of assisting employees exposed to occupational health hazards and the means of identifying worker populations exposed to such hazards. Such research, training, and education shall include (but not be limited to) the following areas:

(1) studying the etiology and development of occupationally related diseases and the disabilities resulting from such diseases;

(2) developing means of medical monitoring of employees exposed to occupational health hazards;

(3) examining the types of medical treatment of workers exposed to occupational health hazards and means of medical intervention to prevent the deterioration of the health and functional capabilities of employees disabled by occupational disease;

(4) studying and developing medical treatment and allied social services for employees exposed to occupational health hazards;

(5) developing education programs designed to train physicians, health, and social services professionals to assist employees and their families in undertaking measures which ameliorate the effects of those diseases; and

(6) sponsoring epidemiological, clinical, and laboratory research to identify and define additional employee populations at risk of disease from exposure to an occupational health hazard.

(c) EDUCATION.—

(1) GRANTS TO INSTITUTIONS WITH EXISTING PROGRAMS.—(A) The Secretary may make grants to, and enter into contracts with, schools of medicine and schools of nursing in which occupational medicine or occupational health programs exist on the date of enactment of this section to assist such programs in meeting the costs of providing projects—

(i) to provide continuing education for faculty in departments of internal medicine and family medicine or in schools of nursing in order to enable such faculty to provide instruction in the diagnosis and treatment of occupational diseases;

(ii) to develop, publish, and disseminate curricula and training materials concerning occupational medicine or health for use in undergraduate medical or nursing training; or

(iii) to establish, for residents in graduate medical education programs in internal medicine, family medicine, and other specialties with a primary care focus, or in graduate nursing programs in schools of nursing, training programs in occupational medicine or health consisting of clinical training, for periods of between 1 and 4 months, in settings such as medical facilities, union offices, and industrial worksites.

(B) In making grants and entering into contracts under this paragraph, the Secretary shall give preference to applicants which demonstrate—

(i) the ability to recruit a significant number of participants to participate in the project to be carried out under the grant or contract (in the case of a project described in subparagraph (A) (i) or (iii) of this paragraph); and

(ii) expertise and experience in the provision of continuing education in occupational medicine or health (in the case of a project described in subparagraph (A)(i)) or the provision of residency training in occupational medicine or health (in the case of a project described in subparagraph (A)(iii)).

(2) GRANTS TO SUPPORT NEW PROGRAMS.—(A) The Secretary may make grants to, and enter into contracts with, schools of medicine and schools of nursing in which, on the date of enactment of this section, there do not exist training programs in occupational medicine or health. The purpose of grants and contracts under this paragraph is to provide support for projects to provide training in occupational medicine or health for faculty who are certified in internal medicine or family medicine by the appropriate national medical specialty board or faculty who have similar qualifications in professional nursing.

(B) Each project for which a grant or contract is made under this paragraph shall—

(i) be based in a graduate medical education program in internal medicine or family medicine or in graduate programs in a school of nursing;

(ii) have an arrangement with an accredited training program in occupational medicine or health for the provision of training in occupational medicine or health to the faculty selected by the recipient of the grant or contract under this subsection; and

(iii) have a plan for the use of the faculty receiving training with a grant or contract under this section to provide education and training in occupational medicine or health to other individuals.

(3) MINIMUM NUMBER OF GRANTS.—The Secretary shall, during the period October 1, 1987, through September 30, 1990, make grants and contracts to not less than 10 schools of medicine or schools of nursing under paragraphs (1) and (2) of this subsection.

(4) SOURCES OF FUNDS.—Unexpended amounts described in section 10(a) of this Act shall be available to carry out this subsection.

(5) DEFINITIONS.—For the purpose of this subsection—

(A) the term "graduate medical education program" has the same meaning as in section 788(e)(4)(A) of the Public Health Service Act; and

(B) the term "school of nursing" has the same meaning as in section 853(2) of such Act.

SEC. 7. EMPLOYEE MEDICAL MONITORING, DISCRIMINATION, AND CONFIDENTIALITY.

(a) EMPLOYEE MEDICAL MONITORING.—Upon the request of any employee notified under

section 5(b) of this Act, the testing, evaluation, and medical monitoring recommended by the Board with respect to the occupational health hazard shall be provided or made available by the current employer—

(1) at no additional cost to the employee (above any existing employee health care contribution) if any part of such exposure occurred in the course of the employee's employment by that employer; or

(2) at a charge to the employee not exceeding the additional cost to the employer (above any existing employer health care contribution), or at no charge, if no part of such exposure occurred in the course of the employee's employment by that employer.

(b) DISCRIMINATION PROHIBITED.—No employer or other person shall discharge or in any manner discriminate against any employee or any applicant for employment on the basis that the employee or applicant is or has been a member of a population that has been determined by the Board to be at risk of disease. This subsection shall not prohibit an employer from refusing to employ an applicant who is or has been a member of a population at risk with respect to an occupational health hazard in a position requiring exposure to the same occupational health hazard.

(c) BENEFIT REDUCTION PROHIBITED.—

(1) If, based on a determination by the Board under this Act, an initial medical determination is made by the employee's physician that an employee should be removed to a less hazardous or nonexposed job, and if within 10 working days of the employer's receipt of this initial determination the employer's medical representative has not requested independent reconsideration thereof, the employee shall be removed to a less hazardous or nonexposed job and shall maintain the earnings, seniority, and other employment rights and benefits as though the employee had not been removed from the former job.

(2) If the employer's medical representative requests independent reconsideration of the initial determination, the employee's medical representative shall, within 14 working days of the initial determination, submit the matter to another mutually acceptable, qualified independent physician for a final medical determination. Such final determination shall be made within 21 working days of the initial determination, unless a longer period is agreed to by the parties. If the two medical representatives have been unable to agree upon the third physician, the Secretary or the Secretary's local designee for such purpose shall immediately, at the request of the employee or the employee's physician, appoint a qualified independent physician who shall make the final medical determination within such 21-working-day period (or within such longer period as is agreed to by the parties). The employer shall bear all costs related to the procedure required by this paragraph.

(3) The medical removal protection described in this subsection shall be provided for as long as a less hazardous or nonexposed job is available. Where such a job is not available, medical removal protection shall be provided for a period not to exceed 12 months. The employer may condition the provision of medical removal protection upon the employee's participation in follow-up medical monitoring for the occupational health effects in question, based on the procedure required by this subsection. The employer's obligation to provide medical removal protection benefits shall be reduced to the extent that the employee receives workman's compensation, disability compensation, or other compensation for earnings lost during the period of removal, or receives income from employment with another employer made possible by virtue of the employee's removal.

(4) Provisions for medical removal protection under this subsection shall not apply if—

(A) a medical removal protection procedure already exists under a standard promulgated under the Occupational Safety and Health Act of 1970 or the Federal Mine Safety and Health Act of 1977 for the occupational health hazard for which the employee has been or is being notified; or

(B) in providing such alternative job assignment, the employer is required to violate the terms of any applicable collective bargaining agreement, or is required to displace, lay off, or terminate any other employee.

(d) CONFIDENTIALITY.—Any records of the identity, diagnosis, prognosis, or treatment of an individual employee which are maintained in connection with the performance of any function authorized by this Act shall be confidential and may be disclosed only—

(1) if necessary to perform any function authorized by this Act, including the performance of medical monitoring; or

(2) with the written consent of such individual employee or the employee's personally designated representative.

(e) REVIEW OF COMPLAINTS.—(1) Any employee who is aggrieved by a violation of this section, may, within 6 months after such violation occurs, apply to the Secretary of Labor for a review of such alleged violation. Upon receipt of such application, the Secretary of Labor shall cause an investigation to be made as he deems appropriate. If upon such investigation the Secretary of Labor determines that the provisions of this section have been violated, he shall bring an action in any appropriate United States district court. In any such action, the United States district courts shall have jurisdiction for cause shown to restrain violations of this section and to order all appropriate relief under this section.

(2) Within 90 days of the receipt of the application filed under this subsection, the Secretary of Labor shall notify the complainant of his determination under paragraph (1) of this subsection. If the Secretary of Labor finds that there was no such violation, he shall issue an order denying the application.

(f) REINSTATEMENT AND OTHER RELIEF.—Any employee who is discriminated against in violation of this section shall be restored to his or her employment and shall be compensated for—

(1) any lost wages (including fringe benefits and seniority);

(2) costs associated with medical monitoring that are incurred while the violation continues; and

(3) costs associated with bringing the allegation of violation.

(g) CIVIL PENALTIES.—Any person or institution that violates this section shall be liable for a civil penalty of not less than $1,000 or more than $10,000 for each violation as may be determined by the Secretary of Labor.

SEC. 8. ENFORCEMENT AUTHORITY.

(a) INJUNCTIVE RELIEF.—Whenever the Secretary determines that any person or institution has engaged, is engaged, or is about to engage in an act or practice constituting a violation of this Act or any rule or regulation promulgated under this Act, the Secretary may bring an action in the proper United States district court to enjoin such acts or practices, and upon a proper showing an injunction or permanent or temporary restraining order shall be granted without bond. The provisions of section 5(h) shall not limit the authority of the Secretary under this subsection.

(b) EFFECT ON OTHER LAWS AND PROHIBITION ON THE USE OF BOARD DETERMINATIONS.—(1) In connection with any claim for compensation, loss, or damage brought under State or Federal law, the following may not serve as a legal basis for or be introduced as evidence in connection with such claim:

(A) a finding or determination of the Board, or an action by the Secretary based on such finding or determination, that an employee is or is not a member of, or that an employee population is or is not, a population at risk of disease as determined under this Act;

(B) evidence that an employee or employee population is or is not about to receive (or has or has not received) notification under this Act; and

(C) evidence that medical monitoring or evaluation is or is not to be initiated (or has or has not been initiated) under this Act.

(2) With respect to any claim for compensation, loss, or damage under State or Federal law, nothing in this Act shall preclude the admission into evidence of—

(A) the results of any medical monitoring or evaluation;

(B) any medical and other scientific studies and reports concerning the incidence of disease associated with exposure to occupational health hazards; or

(C) any data related to exposure to occupational health hazards for individual employees.

(3) Notification pursuant to this Act shall not be relevant in determining whether such a claim is timely under any applicable statute of limitations.

SEC. 9. REPORTS TO CONGRESS.

(a) HAZARD COMMUNICATION STANDARD REPORT.—The Secretary of Labor shall report to the Congress annually, not later than January 15 of each year, regarding implementation and enforcement of the hazard communication standard. The report shall include detailed information on—

(1) monitoring and enforcement of noncompliance, significant areas of noncompliance, penalties assessed, and steps taken to correct noncompliance;

(2) evaluation of the effectiveness of the standard, the material safety data sheets, and training and education programs for employees; and

(3) efforts to assist employers in complying with the standard.

(b) OCCUPATIONAL DISEASE NOTIFICATION REPORT.—The Secretary shall report to the Congress annually, not later than January 15 of each year, regarding the implementation and enforcement of notification under this Act. The report shall include detailed information on—

(1) numbers, types, and results of notifications carried out pursuant to this Act; and

(2) research efforts carried out pursuant to this Act.

SEC. 10. AUTHORIZATIONS.

(a) There are authorized to be appropriated $25,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out the provisions of this Act.

(b) Of the total amount appropriated under subsection (a) for each fiscal year, at

least $4,000,000 shall be available to carry out activities under section 6(b) of this Act.

SEC. 11. EFFECTIVE DATE.

Except as may be otherwise provided therein, the provisions of this Act shall become effective January 1, 1988, or 6 months after the date of enactment of this Act, whichever occurs first, except that—

(1) the Board shall be appointed within 60 days after the date of enactment of this Act; and

(2) the Secretary shall issue regulations necessary to administer this Act within 120 days after the date of enactment of this Act.

The CHAIRMAN. For what purpose does the gentleman from California rise?

Mr. DANNEMEYER. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. GAYDOS] have an amendment?

AMENDMENT OFFERED BY MR. GAYDOS

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

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his point of inquiry.

Mr. DANNEMEYER. When the Chairman recognized this gentleman from California, I indicated that I had an amendment at the desk. I was recognized and I think I am entitled to proceed. Is that not right?

The CHAIRMAN. The gentleman was asked for what purpose did he rise, and the gentleman indicated that he had an amendment. The Chair did not recognize the gentleman because the manager of the bill was standing at the same time seeking recognition.

Mr. DANNEMEYER. Then will the Chair put me on the top of the list?

The CHAIRMAN. The gentleman from California will be advised that the Chair will recognize the gentleman if no committee member seeks to be recognized.

□ 1645

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. GAYDOS: Page 16, after line 7, insert the following new subsection (and redesignate the succeeding subsections accordingly):

"(c) EXEMPTION.—(1) Within 30 days after the Board issues a final determination that a given class or category of employee is a population at risk of disease to be notified pursuant to this Act, an employer who employes or has employed employees within that population may apply to the Institute to have those employees exempted from the notification because they are not at risk of disease based on significant mitigating factors.

"(2) If the Institute concludes that any such application raises an issue of material fact which is subject to reasonable dispute, it shall publish a notice so stating in the Federal Register within 30 days after receiving the employer's detailed application and shall schedule a hearing on the disputed issues. All applications for exemption with respect to any one population at risk shall be consolidated into a single hearing and such hearing shall be concluded within 60 days following publication of such notice in the Federal Register.

"(3) While an application for exemption is pending before the Institute, the Secretary shall not proceed with the notification requirements of the Board's determination with respect to the affected employees of the employer or employers seeking such exemption.

"(4) Within 30 days after the conclusion of the hearing, or, where no hearing was conducted, within 30 days of the receipt of the application, the Institute shall grant an exemption from notification to any employer who has demonstrated by a preponderance of the evidence that his employees should not be included within the population at risk of disease and shall deny such exemption to all other employers. In determining whether an exemption shall be granted, the Institute shall take into account such mitigating factors as work practices, health and safety programs, engineering controls, or other factors that are fundamentally different from those used by the Board that substantially eliminate the risk of developing the occupational disease under examination.

"(5) No employer who has not applied for an exemption may benefit from a decision favorable to any other employer.

"(6) Determinations of the Institute pursuant to this subsection shall not be subject to judicial review.

Page 10, line 9, strike out "5(g)" and insert "5(h)".

Page 17, line 9, strike out "subsection (d)" and insert "subsection (e)".

Page 19, line 13, strike out "subsection (g)" and insert "subsection (h)".

Page 34, line 5, strike out "5(h)" and insert "5(i)".

Mr. GAYDOS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. GAYDOS. Mr. Chairman, the amendment I am speaking of would allow individual companies to apply for an exemption from the high risk notification process. That subject has received an awful lot of debate here up until now and we thought that it would be a proper amendment as far as those individual companies in good faith who have been running a good operation, sincerely so, that they be allowed to apply for an exemption wherever any employee of that company is found by the Risk Assessment Board to be one of a person in a worker population about to suffer from the exposure to hazardous substances. If the Risk Assessment Board has determined that a certain class of workers are at a high risk of developing an occupational disease, and they make that determination, but the employer can prove under the terms of this amendment that his workers are not at risk then that employer can apply for an exemption from the notification process. These applications for exemption will be heard and decided upon by the National Institute for Occupational Safety and Health. We call it NIOSH.

This amendment has been asked for by many companies that feel that it should be their right under these circumstances.

Mr. Chairman, this is a very reasonable amendment under the circumstances which allows exemptions for these businesses which I have hurriedly referred to and usually you will find that they have exceptionally good health and safety programs in place already.

This amendment also can be construed and interpreted as a reward for those businesses that have made a commitment to health and safety by reducing exposures to toxic and hazardous substances in the workplace which in turn will reduce occupational disease generally. I think this is a sensible amendment. It will improve the bill. I urge all my colleagues to support this amendment.

Mr. JEFFORDS. Mr. Chairman, I regretfully must rise in opposition to the amendment.

The amendment strikes me as an unworkable one but maybe I can ask the author of the amendment a couple of questions.

First of all, it is my understanding that the amendment allows an employer to petition the Institute for an exemption from the notification based upon significant mitigating factors within 30 days before issuance of a final determination. Is that correct? Is that what the amendment attempts to do?

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

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

Mr. GAYDOS. Yes, that is correct.

Mr. JEFFORDS. Procedurally, I am not sure how his would work since the Board does not issue the final determination. The Secretary issues the final determination.

I do not quite understand where that 30 days fits in or how it would affect this or why my colleague would attempt to do that at that point.

Mr. GAYDOS. Mr. Chairman, the 30-day notice after the Board issues a final determination would not be difficult to comply with, if that is what the gentleman is asking.

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

Mr. JEFFORDS. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, the problem for my colleague from Pennsylvania [Mr. GAYDOS] is that there are a number of technical problems that arise. The Secretary makes the final determination but when the Secretary makes the final determination

and promulgation, as it were, there is no waiting period. There is no opportunity of appeal. There is no posting. What I suggest is that the gentleman may want to, if you really want to debate the amendment on its merits, withdraw it and reintroduce it with some technical corrections because the Secretary makes the final determination but without an opportunity for review and appeal. On the other hand, the gentleman could put this down with the Risk Notification Board of the Institute to achieve your purpose.

I am simply saying that the amendment is technically flawed in a rather fundamental way.

Mr. GAYDOS. The Secretary would have some discretion. He could wait 30 days it he wishes. There is nothing that says he cannot or must not.

Mr. HENRY. My understanding, if the gentleman will continue to yield, is that we establish a 160-day toll period, and if that is done you would have to put in another 30 days on the toll period and allow it explicitly for that purpose and somehow establish some basis for the Secretary to post. Frankly, if that is what my colleague is trying to do, I do not think I personally would object. However, I think my colleague would have to withdraw the amendment, redraw the amendment to do what the gentleman is seeking to do.

Mr. GAYDOS. What is the specific objection of the gentleman?

Mr. HENRY. We have two different agencies, the Board and that Institute making final determinations and the Secretary making final determinations. They have 30 days after the conclusion of the hearing in which to ask for this variance, and the variance procedure makes eminent sense. I do not think I have any problem with that, but the final determination is not made at that level. It is made by the Secretary.

Mr. GAYDOS. My understanding of the bill is that the Secretary does not make the final determination, he merely adopts it. Therefore, I do not understand the gentleman's problem.

Mr. JEFFORDS. Mr. Chairman, reclaiming my time, we do not understand where this all fits in. At some point the Secretary makes a final determination after he has reviewed the procedural aspects to see whether or not they have followed the procedure.

Are those waivers obtained before or after the Secretary makes that final determination that the procedures have been followed?

Mr. GAYDOS. If the gentleman will yield further, on page 14 of the bill, and I am quoting from section 5 sub (a), "Upon presentation of final findings and determinations by the Board that a given class or category of employee is a population at risk of disease to be notified pursuant to this act, the Secretary shall adopt those findings and determinations, without further notice and without public comment, * * * " et cetera.

Mr. JEFFORDS. That is the way we understand it. I just do not understand how the amendment works. I think it is confusing, but that is all I have to say.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GAYDOS

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

The Clerk read as follows:

Amendmemt offered by Mr. GAYDOS: Page 29, line 18, strike out "should be removed" and insert: "who is a member of a population at risk shows evidence of the development of the diseases described in the notification, or other objective symptoms or conditions increasing the likelihood of the manifestation of such disease, that employee shall have the option of being transferred".

Page 29, line 19, strike out "job, and if" and all that follows through "determination" on line 20 and insert the following: "job. If within 10 working days after the employee has exercised such transfer option and transmitted to the employer that determination,".

Page 29, line 22, strike out "thereof," and insert "of the employee's transfer determination,".

Page 30, line 6, strike out "of the initial determination," and insert "of the transmittal of the transfer determination,".

Page 30, line 10, strike out "of the initial determination," and insert "of the transmittal of the transfer determination,".

Page 30, line 24, after the period insert the following: "The availability of such a job shall depend on the employee's skills, qualifications, and aptitudes, and the job's requirements.".

Mr. GAYDOS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. GAYDOS. Mr. Chairman, this amendment requires that in order for workers to be eligible to be removed from their jobs for medical reasons, the workers must show that they have symptoms associated with a disease which they are at high risk of developing. It is reasonable that there should be a medical or scientific basis for an employee to request a transfer to another job which is what medical removal is all about basically.

This amendment helps protect businesses from unwarranted claims for medical removal and I urge all my colleagues to support it.

I want to emphasize at this point that as far as this amendment is concerned, Mr. Chairman, that presently it is determined after a medical examination that an employee should be moved from his place of employment then a certain procedure is triggered within the legislation. A doctor makes a recommendation, the employer has a doctor that examines the employee, both of them if they cannot agree upon a solution have an opportunity to call in a third medical doctor and the third medical doctor is called in at their agreement. They will be the arbitrator, so to speak.

Even that determination can be appealed under the wording of the present act. We feel that since under certain circumstances transfer is a rather sensitive item that we put in these particular safeguards and that brought up the reason for the present amendment. This present amendment takes it just a little further and it says that under these circumstances it is just not when a worker requests that he wants to be moved, there has to be under this amendment along with what I explained what the bill presently calls for, and this amendment makes it even more difficult and more significant by saying that there must be some symptoms associated with the request involving the disease so that there would be an authenticity there instead of just somebody indiscriminately asking to be transferred from one job to another.

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

Mr. GAYDOS. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, once again I have no problem with what the gentleman's amendment is attempting to do, but if I may inquire, in the fourth line of your amendment, notification or other objective symptoms or conditions increasing the likelihood, I wonder if you would accept as a friendly amendment changing "or" to "and", or else eliminating the "or" phrase. The reason is that what the gentleman is attempting to do is to limit some of the exposure to employers in the program where there is development of the disease as described. This is done through some objective criteria but with the phrase that follows, that actually undermines the first phrase, "or other objective symptoms or conditions." The very fact of exposure, of course, is a condition.

Mr. GAYDOS. Mr. Chairman, if the gentleman will yield, am I reading the gentleman correctly, he wants to change the notification, the "or" to "and other"?

□ 1700

Mr. HENRY. Yes.

The second "or," or other objective symptoms.

Mr. GAYDOS. Which one does the gentleman want, the first or the second or both?

Mr. HENRY. The second one, between symptoms and conditions. So that we link symptoms with conditions.

Mr. GAYDOS. Again, would the gentleman spread on the record which one he wants.

Mr. HENRY. The second so that it would read, "notification, or other objective symptoms and conditions."

Mr. GAYDOS. Symptoms and conditions?

We have no objection to the request.

The CHAIRMAN. Is there objection to the modification of the amendment?

There was no objection.

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

Amendment offered by Mr. GAYDOS: Page 29, line 18, strike out "should be removed" and insert: "who is a member of a population at risk shows evidence of the development of the diseases described in the notification, or other objective symptoms and conditions increasing the liklihood of the manifestation of such disease, that employee shall have the option of being transferred".

Page 29, line 19, strike out "job, and if" and all that follows through "determination" on line 20 and insert the following: "job. If within 10 working days after the employee has exercised such transfer option and transmitted to the employer that determination,".

Page 29, line 22, strike out "thereof," and insert "of the employee's transfer determination,".

Page 30, line 6, strike out "of the initial determination," and insert "of the transmittal of the transfer determination,".

Page 30, line 10, strike out "of the initial determination," and insert "of the transmittal of the transfer determination,".

Page 30, line 24, after the period insert the following: "The availability of such a job shall depend on the employee's skills, qualifications, and aptitudes, and the job's requirements.".

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

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. GAYDOS

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

The Clerk read as follows:

Amendment offered by Mr. GAYDOS: Page 32, after line 2, insert the following new paragraph:

(5) No action may be brought for any claim based on a good faith determination made by a physician under this subsection.

Mr. GAYDOS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. GAYDOS. Mr. Chairman, basically the amendment is framed to protect the doctors involved with deciding—which I just mentioned in the other amendment—deciding whether a worker should be moved from one work site to another. This amendment would protect that doctor involved in making the decision as to which workers should be removed from their jobs for medical reasons.

The amendment would provide legal protection against malpractice for doctors who make a good-faith determination that a worker should be removed from his job because of his exposure to workplace hazards.

I believe this amendment would allow doctors to make decisions generally based on their medical knowledge rather than a fear of malpractice. I feel that this is a very proper amendment under very trying circumstances, as indicated by the occurrence in Florida where no doctor wants to take care of no patient because of being afraid of being sued.

I feel under our bill where you have the employers' doctor and the employees' doctor calling a third physician in and they all agree that the individual should not be moved, then I think that should stand and they should not be subjected to any kind of suit whether it is frivolous or authentic. It is merely a protective device and I will strongly urge support of the amendment.

AMENDMENT OFFERED BY MR. HENRY TO THE AMENDMENT OFFERED BY MR. GAYDOS

Mr. HENRY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. HENRY to the amendment offered by Mr. GAYDOS: In the matter proposed to be inserted by the amendment of the gentleman from Pennsylvania, insert ", employee representative, or employer" after "physician".

Mr. HENRY. Mr. Chairman, I commend my colleague from Pennsylvania who is trying to deal with some of the problems which are in fact unattended in the area of tort liability. His amendment would hold harmless from any tort liability any physician who does or does not recommend medical transfer under H.R. 162. My amendment would add to that and include in this hold-harmless procedure, employers and employee representatives. I do not believe we should make a special exemption for physicians which would effectively allow them to act recklessly or in willful disregard for workers' safety without offering some liability protections for employers or employee representatives. For example, Mr. Chairman, there have been several court cases brought by widows against their spouses' union when the union had negotiated certain safety and health provisions. This is an area ripe for litigation. I believe if we are going to allow the doctors this degree of liability protection which I think is appropriate, I think we should to the same degree, no more, no less, do the same for employers and employee representatives.

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

Mr. HENRY. I will be pleased to yield to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. I thank the gentleman for yielding.

I want to support the amendment of the gentleman. I think what we are pointing out here is we have some great difficulties with this bill. Certainly the amendment by the gentleman from Pennsylvania indicates the liability we are creating here in a tort liability-free bill. But I think if we are going to try to get a situation where people will do things without anything in mind than the workers' good health and ability to be able to receive the proper kind of treatment, et cetera, we should also exempt employers and employees.

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

Mr. HENRY. I would be pleased to yield to the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. I thank the gentleman for yielding.

Mr. Chairman, I would be in direct opposition to the amendment. I feel that it goes too far. By inserting after "physician" the words "employee representative, or employer" the whole basis of the amendment is to zero in on doctors, medical malpractice suits. We are not talking about—you are including in there an employer. Now an employer then would be under the language as now written, no action may be brought for any claim based on a good-faith determination by an employer. Well, an employer has nothing to do with a medical physician making a medical determination.

Mr. HENRY. Reclaiming my time and I would be glad to yield back to the gentleman, it seems to me what we are really saying if I am following this you are saying we have a liability problem you cannot extricate yourself from other than by blocking off the physicians. I guess the physicians would be concerned that they are kind of damned if they do and damned if they do not on the referral process. If they overrefer they are going to get sued and if they underrefer they are going to get sued so just do not let them get sued.

It seems to me you have the same kind of problem in the process between employer and employee and likewise, as our communication from the Justice Department indicates in terms of the whole Federal Government, because the Federal Government under your bill now assumes primary responsibility for worker safety and health rather than the employer. So if we are going to put this liability block in for one special interest then it seems to me we ought to do no less in terms of protecting the interest of those parties that are ultimately going to pay the bill for the liability one way

or the other. After all, it is not going to be the physician who is going to pay the liability without your amendment, it is going to be the employer or individual for whom the physician is the agent. So if it is meant to block off the cost, I am trying to protect the agent, no matter which side the agent is on, the employer's side or the employee's side.

So my intent here is to do no more than your amendment, otherwise quite frankly I would have to object to the amendment.

Mr. GAYDOS. I would like to respond to my colleague that we are talking about the medical profession, you are talking about medical malpractice. We should not and I cannot allow the expansion of this suggested amendment to take care of that pressing problem and then allow it to be expanded to give immunity to an action by an employer or an employee representative. There is a big distinction as to what we are trying to do. We are asking hopefully this amendment, if adopted, would guarantee that a physician would give an unbiased opinion and conclusion and recommendation based upon scientific evidence. So I do not know how you can cloud the issue and include or attempt to include an employer or his rights or an employee's representatives and his rights. I would have no objection to amending the amendment if my colleague would show me the rationale why this could properly be expanded. We are talking about one thing and he is talking about another thing.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

Mr. HENRY. I guess then what is good for the goose is good for the gander. My question is why should one special category of the professionals involved in this procedure be exempted from tort liability on either side of the issue? Remember now this is not talking about employee protection or employer. That is neutral on yours. But you are providing a special liability block-off for the medical profession but not for the scientist doing the health studies for the firm, nor the scientific determinations that the union employees' council may be making in its advocacy of its efforts and determinations as to whether or not to secure these notices from the Department of Health and Human Services for potential referral for class action suits or whatever may follow. So I simply ask the gentleman why do you make one exception, maintain it is valid and then maintain it is invalid for everyone else.

Mr. GAYDOS. If I may respond to my colleague, in other sections of the bill we talk about an employer, when he assumes unto himself the duty or privilege under the bill to make a notification, where the Risk Assessment Board would not be doing the notifying, and we protect him in that particular section from claims that he failed to notify somebody that he could not find or the address was unavailable.

So in that section we are providing a protection for him. But here you are trying to bring in under this section—we are talking about malpractice, period, and you are trying to bring in an overall cloak of immunity and protection for an employer or an employee representative which has nothing to do with whether this employee is transferred from one job to another. I just do not understand the rationale.

Mr. JEFFORDS. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the Henry amendment to the amendment.

Mr. Chairman, I am a little bit confused about just who is liable and who is not on these matters. If the chairman would respond to me, I note that on the Risk Assessment Board certainly we have a physician and I would guess this particular provision would exempt him from liability. I believe there is a provision to exempt Federal employees. But I believe there is no provision to exempt from liability the other civilians or non-Federal employees that are on the Board. Is that correct?

Mr. GAYDOS. This is only a blanket protection for physicians. The reason why we put it in was because of numerous malpractice suits. We did not want to get entangled in a situation where we read every day about physicians refusing to make a decision, refusing to take a patient because they decide one way or the other. All this does is say that if a physician makes a determination that he is immune from any kind of a malpractice suit. That is all this says. I think it is a reasonable amendment because we want that physician to make a determination based upon his medical knowledge. I do not care if it goes for the employee or against the employee, I do not care, just so it is done under these conditions. Supposedly the physician making that decision is going to be able to do that with this protection. Otherwise, we are going to have problems with it, as I see it.

Mr. JEFFORDS. I can understand the desire to protect the doctors, but I do not understand the difference between that and the union official who has responsibilities given to him to notify workers under some agreement made and he fails to do so. Why should that union official be kept liable for exercising his duties when the doctor is allowed to get off free?

Mr. GAYDOS. I will be very blunt to my friend, I will respond: I do not care if it is a union official, I do not care if it is an employer, they are not members of the medical profession. If we want to give them some kind of protection, it has to be in another section, someplace else, not in this section. You are talking about a medical decision. If they make a medical decision they would be included. But they are not making any. Now if the gentleman has an amendment where you want to give some other protection in other places in this bill I would have no hesitation in adopting it if it fits in right.

Mr. HENRY. The point is that everyone involved in this process is making a medical decision, not just the physician.

Mr. GAYDOS. Who?

Mr. HENRY. It could very well be from the employer's point of view or the employee's point of view in terms of the union because of the union's advocacy in a situation, where you are dealing with a Ph.D. epidemiologist who never took a course in med school but they would be the people making the decisions in terms of whether or not, for example, an employer is going to appeal a decision, under the process we just adopted, or whether or not the union official is going to make the determination that in fact a full attempt will be made to contact, notify, refer, pursue or whatever the case may be. We are simply asking for consistency.

Mr. JEFFORDS. I would like to agree with the gentleman from Michigan here. We are setting up an elaborate bureaucratic process here for notification.

We start out with a risk notification board which is not protected from liability.

□ 1715

I can conceive that if they fail to make a determination of the study or make a wrong one, they are going to be open to liability or suit. You are going to require certain people down the line to make notifications, and you are going to require certain people to make determinations on lengths of exposure and to make determinations with employers as to when a person was employed there. All these things could lead to suits based upon their failure to carry out their mandates, and I think we are opening up people under H.R. 162 to liability for failure to do things required by H.R. 162. I see no reason why we would select the physicians out and say, "We will protect you, but we won't protect anybody else for failure in good faith to perform even their own duties."

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

Mr. JEFFORDS. I am happy to yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I would point out that on the nine-member Risk Assessment Board itself we have four nongoverning members of the Board who could very well be professional Ph.D. epidemiologists but not M.D.'s. In fact, that would probably be

likely in many cases, knowing the kind of testimony that we were getting. They would not be protected. So we are protecting the doctor but not the epidemiologist who makes the same decisions. It just does not make sense.

The CHAIRMAN. The time of the gentleman from Vermont [Mr. JEFFORDS] has expired.

Mr. GAYDOS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let me say this. I do not know how clearly I can express it. I want to reiterate what I said before. I would have no reservation to including others in this so-called protective cloak. I would have no reservation if you could show where they were part and parcel of the medical decision. As the bill reads, the only individual is the physician of the employee, whoever he chooses, or the physician of the employer, the doctor or company doctor, and a third member of the medical profession that these two choose to be the arbitrator if they cannot make a decision.

Now, with that outline, with those three medical individuals, we had thought it was proper to give them some cloak of immunity or protection from malpractice. Nobody else, including epidemiologists, in the bill is a part of the medical profession. A toxicologist is not. So we are not including them in this.

I cannot understand the rationale behind my colleague's objection. I strongly suggest to my colleague that he should support the amendment because it does take care of a possible troublesome problem we may have as far as physicians refusing to make a decision as to whether an employee should or should not be removed because he would be afraid he would be sued or if he did not make a decision, he would be sued if he did not make it.

Mr. HENRY. Mr. Chairman, if the gentleman will yield, would that not also apply to the epidemiologist refusing to make a decision on exactly the same basis? That is the question I am raising.

Mr. GAYDOS. Mr. Chairman, I would also point out to my colleague—and I know he would be sensitive in this area—that if we do not correct this situation with this amendment, we are going to find an awful lot of situations where it is going to be detrimental to the employer because a physician is not going to want to make his decision against the employee and he may have all the medical basis to justify making his decision against the employee, and yet he will not do anything because he is afraid he would be sued. So in order to have equity well balanced on both sides, on behalf of the employee when justified and on behalf of the employer when he is right, I would say that this is a good measure of protection.

Mr. HENRY. Mr. Chairman, if the gentleman will yield, that is, or course, exactly the point that we have been making all along, that there are these massive liability exposures built into the bill, so in sense the gentleman is making our case for us. What the gentleman has tried to do is block off a very, very minor part of it.

Why could we not do this? If the gentleman does not like my amendment, why would he not accept an alternative amendment which would cover anyone involved in making a health decision in keeping with the act? It seems to me it is pretty obvious that we are catering, quite frankly, to what somebody would call a special interest group. It is legitimate, but I wonder why what is good for one group is not good for another when the issue stretches across the board on this proposal.

Mr. Chairman, that is my objection.

Mr. GAYDOS. Mr. Chairman, let me say this to my colleague, and I mean this sincerely: The gentleman is very amiable and very persuasive, but I have to stand my ground because in this particular case I have to say that for a physician it is a medial problem and nothing else. I can say this: At least the gentleman admits it is a move in the right direction, so let us take the amendment and at least cure this possibility and maybe, with the gentleman's persuasiveness, when we have other amendments, he might win his point. But this amendment here should not be cluttered up.

Mr. HENRY. Mr. Chairman, I will not prolong this discussion. If the gentleman will yield further, I would simply say that the gentleman's amendment is good and mine is better. That is why I offered the amendment to the amendment.

Mr. BARTLETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Michigan [Mr. HENRY].

Mr. Chairman, I will not take all of my allotted time, but I would like to commend the gentleman from Michigan for his amendment which substantially improved the amendment offered by the gentleman from Pennsylvania [Mr. GAYDOS].

The difficulty that is in this bill is this: I think the Members need to use this amendment as a part of the instructive process, and the reason that the gentleman from Pennsylvania is offering his amendment is that with what is in the bill presently, it is said that there should be a medical removal, than an employer should be required to offer an alternative job for 12 months if the personal physician of that employee certifies that.

The difficulty, whether you take the physician off the hook as far as liability is concerned, the difficulty still remains with that basic provision, the medical removal position. So as long as you have the medical removal provision, I think it does help it somewhat to eliminate the liability from the physician, but the physician can still unilaterally virtually require the employee be given a different job or be given severance pay of 12 months just upon his say-so alone.

I think it is an improvement further to take the Henry amendment to the amendment, and I would hope the gentleman from Pennsylvania [Mr. GAYDOS] would accept that amendment that says an employer or an employee's representative also shall not be liable if he makes a decision that is within his discretion as contained in this bill, and there is some discretion in this bill for that, that he shall not be liable for a suit by the employee.

The gentleman from Michigan is trying in some way to take a bill that is going to lead to an enormous explosion of litigation and have it lead to what is still an enormous explosion of litigation but just simply less of it.

So, Mr. Chairman, I urge an "aye" vote for the amendment offered by the gentleman from Michigan [Mr. HENRY].

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am a little confused here. Can some Member tell me how many days of hearings the committee held on this bill? How many days of hearings did the chairman hold on this bill?

Mr. GAYDOS. Mr. Chairman, if the gentleman will yield, back in the last Congress we had 6 days of full hearings, and in this Congress, the 100th Congress, we had 5 hearings.

Mr. WALKER. So we have had about 11 days of hearings?

Mr. GAYDOS. Mr. Chairman, the gentleman asked me a question, and I wish he would let me respond further to it.

Mr. WALKER. I am glad to yield further to the gentleman.

Mr. GAYDOS. In all those hearings, if I may say so, we had more witnesses against the bill than for the bill. I just want the gentleman to know that. We had more against the bill than for the bill, and I did that for the primary reason of trying to hear all sides. So that is how it turned out.

Mr. WALKER. Mr. Chairman, I thank the gentleman, and I really congratulate him for that. To digress for just a minute, I understand we are going to have a hearing in the Judiciary Committee tomorrow on the balanced budget amendment where only one side is going to be called. They are only going to call in the opponents to listen to that.

So the gentleman is to be congratulated. I wish the same kind of fairness were shown by the chairman of the Judiciary Committee.

Mr. GAYDOS. Mr. Chairman, I say to the gentleman from Pennsylvania that I did the same thing. I postponed the markup on this bill, believe me, and we had a special minority hearing for the Chamber of Commerce representing all of small business. That took that whole day on that hearing. I did not mind it. I thought it was proper to do it, and I make the point since the gentleman raised the question.

Mr. WALKER. Good. Let me say to the gentleman that we need that kind of fairness, and I think it is absolutely ludicrous that tomorrow we are going to have a hearing where only one side can testify. When proponents of the balanced budget amendment were called up, they were told, "Oh, no, this hearing isn't for you." That is rather ridiculous. But I digress.

The reason I asked the question is to ask this: How long did the gentleman spend marking this bill up, several hours or a couple of days?

Mr. GAYDOS. For marking the bill?

Mr. WALKER. Yes.

Mr. GAYDOS. We had a markup in the subcommittee, which is the usual procedure, as the gentleman well knows. I think we had a lively debate, and I believe the amendments offered in the subcommittee markup found their way to the floor today and will be offered. Then we went to the full committee. I would say we spent a good 2 hours on it.

I do not exaggerate one way or the other, but I thought we gave a fair play to all those who wanted to be heard in the full committee. I think there were amendments offered there, and then we had it reported out by voice vote. It was not a recorded vote. It was a voice vote because we were running very close to the 12 o'clock time when we were going to start here on the floor of the House.

Mr. WALKER. Mr. Chairman, I thank the gentleman. I know that my colleague, the gentleman from Pennsylvania, was trying to be very fair on this.

What troubles me, and the reason I stand up here now, is because I get the impression that after 11 days of hearings and after a couple of hours of markup the committee is out here on the floor rewriting the bill on the floor. The only amendments we have had thus far have come from the committee. If in fact the gentleman is correct in saying that we have an amendment before us now that addresses what I think he called a troublesome problem, I ask, why was that problem not found in the 11 days of hearings so it could be included in the original bill? Why are we out on the floor now having the committee rewrite the bill?

There are some other Members around here from other committees that are naturally going to have some other amendments because they were not a part of that markup. It strikes me as just passing strange that the committee is out here rewriting this very, very important bill.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield further?

Mr. WALKER. Of course, I yield to my colleague, the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, let me emphasize the fact that these amendments are by their very nature minuscule, believe me, as far as this bill is concerned.

This particular item here involving malpractice by physicians came about because of the Florida notoriety, the situation down there where physicians were walking off, and an individual came to our office and said, "Look, I think it would be a very good amendment if we had this inserted," I only have six amendments here.

Mr. WALKER. But after 11 days of hearings, should you not have found that before?

Mr. GAYDOS. Nobody ever raised the subject, and we had all kinds of experts in.

Mr. WALKER. Mr. Chairman, let me just make this point: we are entering into an area here that is going to cost employers of our country literally billions of dollars, and we are out here on the floor rewriting a bill and we do not know exactly and will not know exactly what the implications of it are.

This Congress has a peculiar kind of tunnel vision when it comes to these kinds of issues, because on one hand I am about to go into a trade conference where we are concerned about the fact that this country is coming apart at the seams because of unfair foreign competition, and now we are coming to the floor with this kind of bill that is going to impose massive costs on employers, absolutely massive costs on the employers of our country, and we somehow see that as a different issue from the other issue over here where we cannot find enough products to trade in the world.

This is absolute lunacy. We cannot go on like this. We cannot have a Congress that jumps to the tune of every special interest that comes down the pike. That is what we are doing here.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

Mr. WALKER. Mr. Chairman, the special interests snap, and what do we do? We jump. We are out here jumping today, and we are jumping in ways that I think cause real problems when the committee itself does not have its act together enough to even know what it is that they are bringing to the floor and then comes out here and begins the process of rewriting the bill on the House floor.

Let me say that if there was ever a reason to vote against this bill, it is being given to us right now. Nobody knows what is in it, nobody knows that should be in it, and yet we are going to impose billions of dollars of costs upon employers across this country over a period of some years, billions of dollars that they cannot afford if we are going to be competitive in the world economy.

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

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I appreciate the gentleman's yielding.

First, I want to assure all those Members who are sharing in our debate that the summary of the subcommittee chairman, the gentleman from Pennsylvania [Mr. GAYDOS], in terms of the procedures is accurate. In fact, we were given a full opportunity to offer amendments in committee. We did so en bloc to expedite matters of time, and that was agreed to on both sides in exchange for the subcommittee's cooperation for full, unimpeded debate on the floor. Obviously they have been very generous in that regard.

But the gentleman made exactly the critical point when the gentleman from Pennsylvania [Mr. GAYDOS] in this instance talked about the fact that we heard of the problems the doctors in Florida are having about liability, so we put in the amendment to solve the doctor's problem. My concern is this: What about the employers' problem?

I have factories closing in my district. I lost the very largest industrial salt company in the free world which closed down in my district just in this last year for these kinds of problems. We take care of the doctors, but we do not take care of the guy hiring the workers and hiring the doctor.

The problem with the amendment as it is drawn, I say to the subcommittee chairman—and I say this with great respect—is this: What happens if an employer hires a physician and the physician screws up royally? The physician is protected under his amendment, but the employer of that physician can be sued as the principal.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield further?

Mr. WALKER. I am glad to yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, the only comment I would like to make is this: If my colleague has lost so many individuals as employers, he has not done it as a result of this bill, I can

guarantee that, because this is in the making.

□ 1730

We would hope it would do just the opposite. I wanted the gentleman to understand that.

I feel very sincerely about that aspect of the gentleman's stated opposition to this bill.

I can answer the gentleman in this manner. I would be very susceptible, if the gentleman makes a request, to withdraw this amendment at this time, and we may bring it up for consideration a little later, because if the gentleman thinks the gentleman has made such a salient point, I will withdraw the amendment at this time.

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

Mr. WALKER. Mr. Chairman, I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I thank the gentleman from yielding.

The gentleman from Pennsylvania will withdraw the gentleman's amendment if I withdraw my amendment to the amendment?

Mr. GAYDOS. Yes, and the gentleman can bring it up later by unanimous consent.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania [Mr. GAYDOS] and the gentleman from Michigan [Mr. HENRY] to withdraw their amendments?

There was no objection.

Mr. WALKER. Mr. Chairman, in conclusion, I am glad we got that settled. That is nice that we have gotten one amendment off the floor.

It still leaves the Members with the larger question of just exactly what it is we are doing here, and it seems to me that what we are doing is imposing costs on employers that they cannot afford at a time when a world economy demands that we understand how it is that people get jobs.

We are going to force people out of work with this kind of big labor-oriented legislation.

I would suggest that it is time to rethink where we are going.

If this Congress plunges us into recession the way we are capable of doing with these lunatic bills, I think we will have a horrible price to pay across the entire country.

AMENDMENT OFFERED BY MR. GAYDOS

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

The Clerk read as follows:

Amendment offered by Mr. GAYDOS: Page 28, line 14, before "Upon" insert "(1)".

Page 28, line 20, strike out "(1)" and insert "(A)".

Page 28, line 24, strike out "(2)" and insert "(B)".

Page 29, after line 3 insert the following:

"(2) An employer shall not be required to duplicate any medical monitoring already required under a permanent health standard promulgated under section 6(b)(5) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 665(b)(5)), or under section 101(d) of the Federal Mine Safety Act of 1969 (30 U.S.C. 811(d)).

Mr. GAYDOS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. GAYDOS. Mr. Chairman, the amendment is based on the knowledge that some employers already monitor their employees for medical symptoms of specific hazardous material, substances, processes, and that is a fact.

If the Risk Assessment Board under the terms of the existing bill as offered, if the Risk Assessment Board contacts an employer and tells him that he must monitor his employees for a substance which he is already testing those employees for, then the high-risk program will not require him to test his employees twice.

The language is very, very simple.

It says this, "An employer shall not be required to duplicate any medical monitoring already required under a permanent health standard promulgated under section 6(b)(5) * * *."

Let me again make an attempt to explain and elucidate what we mean by monitoring. Monitoring can consist of from a liver scan which it may, if taken yearly, or every 2 years, the cost might be $250 for the employee.

It can be as cheap as $6 for a urinary test which would be given every 3 years in cases involving cancer of the bladder, things of that nature.

An x ray which is called monitoring may cost $35 for the year.

I think there are some misconceptions floating around that when we say monitoring, it is some very decided medical procedure that is almost confiscatory. It is not that great.

Science as such has progressed to the point, with the medical profession, where they now can almost pinpoint how much examination a person should have. In fact, medical science is limited today to the number of x rays a person can have.

They feel they are overexposed. All the testimony we had by the experts indicated to the committee that these costs are not prohibitive, and that is what we deduced from the testimony.

They were not prohibitive, so in this area we still did not want to duplicate it, say, under OSHA, another standard, a specific material standard such as arsenic, and that they were monitoring on a yearly basis an employee there, and it should not be under this bill a requirement to again put into play a monitoring requirement and again have that person monitored, because one examination is as good as another.

That is the basis of the amendment.

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

Mr. GAYDOS. I yield to the gentleman from Vermont.

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

I have a few questions on this amendment. Would the medical monitoring which is conducted under OSHA be considered as in compliance with H.R. 162?

Remember, we have got penalties in here for failure to conduct the monitoring under H.R. 162. I do not think the gentleman's amendment specifies that.

Mr. GAYDOS. My response is that if there is an existing standard that is requiring monitoring under this amendment, no further monitoring would be required.

Mr. JEFFORDS. Then it would be in compliance with H.R. 162?

Mr. GAYDOS. Yes.

Mr. JEFFORDS. Suppose the monitoring was perhaps for different, or for the same substance but a different disease. Would it still be in compliance, or what would be the situation then?

Mr. GAYDOS. The assumption would have to be that if an employer were notified that a certain disease is at his workplace, and that disease was not the sum and substance of the monitoring under another standard for another disease, of course, one would not affect the other; and you would be monitored for that particular disease for which a notification preceded it.

There is a possibility, very remote, that a person might be working with two or three hazardous materials, one of which is under OSHA standards which is being monitored, and another one would be under this bill here where it would be suggested he get medical treatment and could be monitored every 2 or 3 years on another item.

Mr. JEFFORDS. In other words, if the monitoring is for different situations, different disease or whatever, then they would continue with both monitoring, or they would modify the monitoring, or what would happen?

Mr. GAYDOS. No, each medical examination pertains to the specific disease involved.

If under a standard the individual employee is being monitored for, say, arsenic exposure, that stands; but under this notice, if the notice pertains to another disease, BBN or some other type of disease, the monitoring, if required, would be in another category from another disease, and separate and apart monitoring.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GAYDOS

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

The Clerk read as follows:

Amendment offered by Mr. GAYDOS: Page 12, after line 21, insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

(4) If the Board, after considering the factors described in paragraph (3), identifies a long-latency disease among persons exposed to substances, agents, or processes, the Board may, in designating a population at risk that should be notified under paragraph (1)(B), limit such notification to persons whose exposure occurred within a time period that corresponds to, but encompasses, the period of latency of such disease.

Mr. GAYDOS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. GAYDOS. Mr. Chairman, one of the concerns many of the Members had while we considered this bill, and that which has been expressed by many witnesses about the bill, is how far back we go in notifying a worker who has been exposed to a certain hazardous susbstance, or procedure.

This amendment addresses that specific issue in this manner. Under the terms of this amendment, the Risk Assessment Board would have the ability to limit the notification to the period of latency associated with the disease.

Thus, for example, if a class of workers was identified at risk of bladder disorder because of exposure to a chemical dye, take that example, and the latency period for that exposure of that dye was, say, 10 years, the notification would be limited to that 10-year period.

The structure of this amendment is such that the Risk Assessment Board using its own medical and scientific knowledge, as well as the knowledge of experts that the Board is permitted under the bill to bring into the process, I think it is an important amendment.

I think it is an amendment that should be adopted without too much debate or concern.

Mr. JEFFORDS. Mr. Chairman, I reluctantly rise in opposition to the amendment.

I do so not that it may not be well-intentioned, but I have some great difficulty in trying to really understand the implications of the amendment.

As I understand this amendment to attempt to limit retroactivity of notification to former workers based on latency periods of disease, I believe that is correct, and my understanding of disease latency periods is that the latency time is directly related to the date of the last known exposure, that H.R. 162 requires notification based on extrapolation to workers who have not been studied.

How then will the Board notify the Secretary who then has to notify NIOSH that certain persons should not be notified?

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

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

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

I cannot speak for the Risk Assessment Board. They are the experts.

We set out the parameters. I do not know as of this time just exactly how the latency period relates, and whether a 3-month period is very, very crucial or not.

As I understand the gentleman's inquiry, the gentleman makes note of the fact that there is a latency period that may begin to run at various times. That would have to be a determination by the medical experts that are on the Board.

I do not know if it would be the toxicologist or the epidemiologist, or even a member of the medical profession, a certified member of the medical board.

A lot of those things have to be done by the experts, and that is one of the reasons why the Risk Assessment Board was made up of such a political scientific outstanding individuals to be recommended by the National Academy of Sciences.

We tried to do it that way.

Mr. JEFFORDS. The Board has no individual information. The Secretary has no individual notification.

Any individual exposure information available, H.R. 162 does not require that exposure information. It would be NIOSH, not the Board, that would have access to this information.

I have a difficult time understanding how the amendment would work.

Mr. GAYDOS. Mr. Chairman, if the gentleman would continue yielding, if there is no information, the only conclusion even those experts must draw under the circumstances is that there is no time limit, and whoever they can notify, fine, and that is who will be notified.

We tried to put this in as a limiting feature, meaning that if the experts have good, solid information that this is the latency period, why not have a cutoff period.

Why not put a blanket protection over going back too far as some of the people have criticized?

Some individuals said that we have gone back too far. We feel this is a way out.

If the scientists make the conclusion that this latency period is definitely discernible, they will set in motion their notice in such a way, they only go back 5, 6 years, depending on what they scientifically deduce as a matter of fact.

It would be conjecture on my part to say they do one thing or another thing. I am not a scientist.

Mr. JEFFORDS. I would just point out that it raises one of the big problems with the bill which it does not solve; and that is, one could go back infinitely with respect to liability and notice requirements, and I do not think that this provision, as well-intentioned as it may be, is going to solve that problem at all.

Mr. GAYDOS. It may or may not. I was trying to explain to the gentleman the purpose of the amendment.

Whether it accomplishes it or not, every Member has to make that decision in their own good conscience after applying the amendment.

I submit this is a move in the right direction and gives some latitude to the expert board that we have, and it would be on the affirmative rather than the negative side.

Mr. JEFFORDS. I understand, and I appreciate the gentleman raising a substantial problem with the bill; but I cannot agree that it will do anything significant to alleviate that problem.

The CHAIRMAN. The time of the gentleman from Vermont [Mr. JEFFORDS] has expired.

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

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

Mr. BARTLETT. Mr. Chairman, I direct my question both to the gentleman from Vermont and the gentleman from Pennsylvania [Mr. GAYDOS], the chairman of the subcommittee and the sponsor of the amendment.

As the Board considers this latency period under the gentleman's amendment, would the Board be permitted to consider those other factors that also contribute to the latency period? For example, if a group of workers are found to be statistically at a higher risk of certain types of cancers that are affected with even higher risk because of a high red-meat content in the diet, for example, that red-meat content in the diet would also affect latency periods?

□ 1745

Does the gentleman's amendment intend to allow the Risk Assessment Board to place the other factors outside the work place into their judgment of the latency?

Mr. GAYDOS. Mr. Chairman, if the gentleman will yield, we have specific language in the bill that addresses that very problem. In there it says that the Risk Assessment Board should consider that factor. They should consider all extenuating circumstances and all factors directly or indirectly.

The gentleman will find the provision that will cover that; for instance, like smoking. It is the same type of a

problem, like red meat. The Risk Assessment Board is directed to take that into consideration.

Now, to the degree that they do it is debatable. I do not know. I am not going to be on the Board. We hope that the scientists on there will make that determination based upon the specific language in the bill. They are going to have these parameters which are going to have to be a guideline to them.

If I may point out, in the bill on page 12, section D, line 8:

(D) the extent of the increased risk of illness or disease created by the occupational health hazard alone or in combination with other factors, including (but not limited to) smoking and diet;

I say that "diet" would take care of the red meat.

Mr. BARTLETT. Mr. Chairman, if the gentleman will yield further, the gentleman is correct that the bill says that, but I do not know how the Risk Assessment Board could actually put it into effect, because as I understand, the Risk Assessment Board is still required under this bill, on page 10, to indentify and designate from this review those populations at risk, and in identifying those populations, they consider the factors.

Is it the gentleman's contention that the Risk Assessment Board would not have to notify workers that diet or some other factors would increase their exposure?

Mr. GAYDOS. No, the diet and that problem is all part and parcel wrapped up in the determination made by the Board. Those elements and factors would appear in that determination. They have to take that into consideration. How they do it, we understand from NIOSH, they can do it and they have done it; so how they do it mechanically would be up to them as far as their professional abilities and their know-how allows them to do it; but the wording is clear in the statute. The wording is very clear.

Mr. BARTLETT. Well, Mr. Chairman, if the gentleman will yield further, I will just read the wording into the RECORD and then the Members can judge for themselves. It says beginning on line 8 on page 12, and this is one of the factors that the Board shall consider in identifying the population at risk, but I want to remind the gentleman that they still have to identify the whole population at risk:

(D) the extent of the increased risk of illness or disease created by the occupational health hazard alone or in combination with other factors, including (but not limited to) smoking and diet;

It is either/or. The Board is not required to consider the combination of other factors. As I read that, if the Board then can consider the factors or just simply the extent of increased risk of illness in any occupation.

Mr. GAYDOS. Well, if I may, if my colleague will yield further, I just have to conclude that maybe in some circumstances the medical people involved or the scientists probably could not do it. That is why we have the "or" in there, because in some conditions they would not be able to do it because of the inability of the scientific approach to the problem in order to do it.

I think one item in here that the gentleman is not referring to is, following on "including but not limited to smoking and diet." They can include it, but they do not say you are limited to it.

Mr. BARTLETT. Well, Mr. Chairman, if the gentleman will yield further quickly, this paragraph could be written precisely if that was the sponsor's intent. It could say that the Board shall consider the other factors in determining the population at risk and eliminate or reduce the populations at risk if their risk is primarily or largely the result of other factors, but it does not say that. It says it gives the Board some discretion, I suppose in this, but not very much, but it does say "or in combination with other factors."

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

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. GAYDOS

Mr. GAYDOS. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. GAYDOS:

Page 19, line 23, insert "State or local" before "government".

Page 20, beginning on line 18, strike out all of paragraph (3) through line 6 on page 21, and insert the following:

"(3) The determinations of the Board shall be subject to review in accordance with section 706 of title 5, United States Code.

Page 7, beginning on line 20 strike out paragraph (8) through line 23 and insert in lieu thereof the following:

(8) The term "hazard communication standard" means the standard contained in sections 1910.1200, 1915.99, 1917.28, 1918.90, and 1926.59 of title 29 of the Code of Federal Regulations as in effect on October 1, 1987.

Mr. GAYDOS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and considered en bloc.

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

There was no objection.

Mr. GAYDOS. Mr. Chairman, these amendments take into consideration certain technical corrections. The amendments change the definition of OSHA's hazard communication standard to conform with OSHA's recent expansion of that standard.

The amendments also change some of the procedures of the Risk Assessment Board in H.R. 162 so that it conforms to the administrative review procedures of the Administrative Procedures Act as such.

Now, the first change is necessary in light of changes in the OSHA hazard communication standard, which we all know, and second will put the bill more in line with the current Federal laws, and we are talking about the administrative review.

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

Mr. GAYDOS. Yes, I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, we have no objection to the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania [Mr. GAYDOS].

The amendments were agreed to.

Mr. GAYDOS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. FOLEY] having assumed the chair, Mr. TORRES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 162) to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes, had come to no resolution thereon.

MINTING OF COMMEMORATIVE COINS IN SUPPORT OF 1988 OLYMPIC GAMES

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2741) to authorize the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic Games, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Page 4, line 18, strike out "December 31, 1988" and insert "June 30, 1989".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. BARTLETT. Reserving the right to object, Mr. Speaker, I do not intend to object if this has been cleared by the minority, but our leadership on this desk does not have a clearance or a waiver.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

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

Mr. ANNUNZIO. This has been cleared with the minority on our committee.

Mr. BARTLETT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

PEACE PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, the administration has repeatedly supported peace negotiations, and has been rebuffed by the Communist Sandinistas each time. U.S. policy still stresses a negotiated peace settlement. However, we insist that democracy, not communism, prevail in Nicaragua.

In 1979, the United States provided $118 million in economic assistance to the Sandinistas who promised major reforms. Instead the Sandinistas took the United States economic aid, went to the Cubans and the Soviets for arms and military advisers, and then replaced the repression of Somoza with a much worse Soviet-style totalitarian repression.

The fact that the Communist Sandinistas broke their treaty to the OAS should not surprise anyone. British Prime Minister Neville Chamberlain's sellout of Czechoslovakia in 1938 to achieve "peace in our time" has become the classic lesson in the folly of trusting dictators who have both proclaimed and demonstrated their willingness to use the big lie to achieve their goals.

□ 1800

Chamberlain has gone down in history as a fool for trusting Hitler, but what is generally forgotten is the fact that he had a lot of company. His deal with Hitler was widely hailed by the press and politicians as a great achievement. It didn't take long for Hitler to expose their gullibility.

The 49-year-old lesson of Munich seems to have been forgotten. The North Koreans have consistently and massively violated the 1953 Korean armistice. Henry Kissinger received the Nobel Peace Prize in 1973 for a treaty with the Communists that led to the invasion of South Vietnam, to the genocide in Cambodia, and to the thousands of Vietnamese at the bottom of the South China Sea. The Kennedy-Khrushchev agreement was supposed to have prevented Cuba from exporting its revolution. Cuba now has its troops not only in Nicaragua, but over 40,000 in Angola and thousands of others all over Africa. The current Arias proposal was predicated on the assumption that the Communists who rule Nicaragua can be trusted to live up to promises similar to those they made to the Organization of American States [OAS] before they took power in 1979, promises they broke once they were firmly in control.

President Arias has proposed a peace plan that is not at all realistic with his previous statements.

I would like to use a couple of quotes of President Arias. On February 1, 1987, he said:

> If Nicaragua halves its numbers of tanks, aircraft, armored helicopters, and so forth, it would simply mean that if they were to invade us it would take them 15 minutes longer to do so. What worries us is Nicaragua's failure to move towards a pluralist form of democracy, as they promised in 1979 and as they promised in the Contadora document.

He also said on May 29, 1986:

> There can be no peace, even if the Nicaraguans throw all their artillery and their helicopter gunships into Lake Managua, if there is no democratic opening in Nicaragua. The Nicaraguan people, both inside and outside, will keep fighting for freedom, and Honduras and Costa Rica will keep suffering the effects of the struggle."

The Arias plan comes at a time when the Nicaraguans fighting for freedom have been making their greatest progress.

The Nicaraguan Defense Minister, Gen. Humberto Ortega, at an officer promotion and awards ceremony on July 15, 1987 said:

> We have a real, living, dynamic and present danger that daily threatens our existence, not only as a revolution but also as an independent nation . . . for the rest of the year we must fortify with greater eagerness, greater capability and disposal of the revolutionary state.

The current treaty allows for the Communists to take a breather, to regroup, and to unpack the new Soviet weapons that are flowing into Nicaraguan ports.

Are we again going to fall into the Communist trap?

Are we again going to allow a people to be forced into lifelong Communist tyranny?

Now is the time for the United States to stand up and support the people who are fighting for freedom in Nicaragua. Because if we don't, and United States troops are forced to remove the Soviet beachhead in our hemisphere, the blood of our troops will be on the hands of those who again make the mistake of trusting the Communists to live up to their promises. Winston Churchill once said:

> When they asked me what I would call WW II, I said "the unnecessary war" * * * If the allies had the sense of responsibility found in most ordinary households, the war could have been averted. It is my purpose, as one who lived and acted in those days, to show how easily the tragedy of the Second World War could have been prevented; how the malice of the wicked was reinforced by the weakness of the virtuous.

Mr. Speaker, how many times do we have to relive the painful lessons of the past?

Mr. Speaker, Lord Chamberlain would probably have won the Nobel Peace Prize in 1938 for his now infamous agreement with Adolf Hitler in Munich.

Now Oscar Arias has received the Nobel Peace Prize for coming up with a peace plan that gives the Communist Sandinista government breathing room. It is no doubt well intentioned but so was Lord Chamberlain.

The only thing Communists understand is strength, just as Hitler and the Fascists only understood strength.

The cry of peace in our time preceded World War II. The cry today of peace in Central America, while allowing the Soviet Union to establish a beachhead in Nicaragua that is threatening all of the Central American democracies and our security as well, could precede a major war here.

We all want peace but not at the expense of a future war or more Soviet style Communist dictatorships in our hemisphere.

NATIONAL BLACK AMERICAN INVENTORS DAY

The SPEAKER pro tempore (Mr. GRAY of Illinois). Under a previous order of the House, the gentleman from New York [Mr. FLAKE] is recognized for 5 minutes.

Mr. FLAKE. Mr. Speaker, I am pleased for this opportunity to address the House today to introduce a joint resolution designating March 27, 1988, as "National Black American Inventors Day." Black Americans are credited with thousands of inventions which range from items of household conveniences to items of vital importance to business and industry. Black Americans, accustomed to hardship, continuously created new and more efficient ways of working, thus inventing hundreds of labor saving devices, revolutionizing industry and improving not only their lives but the lives of all Americans and other people throughout the world.

Some inventions by black Americans are well known while research has uncovered many others for which black people have never been given proper credit. Prior to the Civil War, black Americans were not permitted to obtain patents, the result being that many thousands were claimed by slave masters. During the 1800's many of the black inventors listed in the U.S. Patent Office were identified only by their first initial and last name. This practice was used to conceal the identities of black inventors because they were often forced to give up their discoveries once their race became

known. Recognition of the invention was denied if the inventor was known to be black.

As early as 1753, Benjamin Banneker built the first wooden clock ever made in America. Benjamin Banneker, born November 9, 1731, near Baltimore, MD, was a self taught mathematician, astronomer, author of almanacs, surveyor, humanitarian and inventor. A traveling salesman showed him a pocket watch, something he had never seen before. Banneker was so fascinated with the watch that he took it home and spent days taking it apart and putting it back together again. In 1753, using the watch as a model, Banneker produced the first wooden clock every built in the United States. It was made entirely of wood, each gear carved by hand. His clock kept perfect time, striking every hour, for more than 40 years.

The first black inventor to be listed in the official Patent Office records was Henry Blair. Blair invented a corn planter which placed plants in check-row fashion with rows at right angles to each other. Prior to Blair's corn planter, crude planting devices which dated back to about 2000 B.C. were used. In 1836, Blair invented a similar cotton planter.

Lewis H. Latimer was a pioneer in the development of the electric light bulb. Latimer was born in 1848, the son of a former slave. He was a member of the Edison Pioneers, a group of distinguished scientists and inventors who worked with Thomas Edison. Because he was a highly skilled draftsman, Latimer was asked to draw the plans for Alexander Graham Bell's telephone patent. In 1881, Latimer invented the incandescent electric light bulb with a carbon filament. In 1882, he received a patent for what was probably his most important invention, an improved process for manufacturing carbon filaments used in light bulbs. He assigned these and other patents over to the U.S. Electric Lighting Co. In 1884 while working for the Edison Co., Latimer supervised the installation of Edison's Electric Light Systems in New York, Philadelphia, Canada, and London. Lewis Latimer contributed significantly to America's industrial revolution.

In 1892, G.T. Sampson invented a clothes dryer in which a heating device operated by a motor extracted moisture from clothing. Prior to this invention, most clothing was dried on a clothes line. Sampson's dryer was the forerunner of modern-day electric and gas clothes dryers.

Granville T. Woods was a prolific and brilliant inventor of devices which produced broader and more efficient application of electricity. The father of the braking and electrical systems used on railroads, Woods also developed the steam boiler furnace and radiator. Woods revolutionized the transportation industry in 1892 with the invention of the third rail now used in modern subway systems. It permitted steam powered railroads to be converted to electrical power. Prior to that time Woods had patented a system of laying tracks underground, invented to relieve the overcrowding of surface railway traffic. In 1887, Woods produced one of his most important inventions, the synchronous multiplex railway telegraph. This device significantly reduced train accidents by allowing railroads to send coded signals forewarning operators of obstacles in front of or behind them.

Before Elijah McCoy invented the lubricator cup in 1870, all motorized machinery had to be periodically brought to a complete stop so that it could be lubricated by hand. McCoy's invention reduced time and labor costs significantly and increased business profits substantially by making lubrication automatic. Subsequently everyone who owned a self-lubricating machine boasted of its having the "Real McCoy," a popular expression still used today to signify genuine quality.

Therefore it is fitting that the birthday of this man who so modernized the industrial world should be designated "National Black American Inventors Day," in recognition of the contributions of these gifted men and women.

Those whose accomplishments I have outlined are only a few of the thousands of black American inventors who added to the convenience, luxury and quality of American life through their ingenuity. Our lives and history would not have been the same without the traffic light, egg beater, spring gun, fountain pen, butter churn, ironing board, clothes dryer, golf tee, steam gauge, lawn sprinkler, pencil sharpener, lawn mower, hand stamp, elevator, casket lowering device, street sweeper and gas mask, each of which made life a little easier and each of which was invented by a black man or woman. I invite you to join me in recognizing these great Americans by supporting National Black American Inventor's Day.

Mr. Speaker, I include for the RECORD a copy of the joint resolution designating National Black American Inventors' Day.

H.J. RES. —

Joint resolution designating March 27, 1988, as "National Black American Inventors Day"

Whereas inventions by black Americans range from items of household convenience to items of vital importance to business and industry;

Whereas these inventions include the third rail system used in subways (1892), the radiator and steam furnace (1884), the traffic light (1923), the shoe lasting machine (1883), the gas mask (1914), the electric light bulb with a carbon filament (1881), the first practical refrigeration system for longhaul trucks (1839), the sychronous multiplex railway telegraph (1887), the lunar surface ultraviolet camera/spectograph (1972), and the first working clock made in America (1753);

Whereas these inventions also include laborsaving devices such as the corn planter (1834), the cotton planter (1836), the hand corn shelling device (1884), the lawn mower (1899), the automatic lubricator for heavy machinery and trains (1872), and the railroad car coupler (1897);

Whereas many of these inventions revolutionized their respective industries;

Whereas, prior to the Civil War, many black Americans did not receive credit for their inventions because slaves could not receive patents and because masters often claimed credit for the inventions of their slaves;

Whereas the number of inventions that are indeed credited to black Americans is in the thousands;

Whereas the contributions of black American inventors have not received the national attention that they deserve: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 27, 1988, is designated as "National Black American Inventors Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

DAVIS-BACON ACT

The SPEAKER pro tempore. (Mr. CARPER). Under a previous order of the House, the gentleman from Utah [Mr. HANSEN] is recognized for 5 minutes.

Mr. HANSEN. Mr. Speaker, with the onset of the 30 degree weather, I am reminded that the cold and flu season will soon be upon us. Even though a cure has not been discovered for the common cold, we are continually bombarded with advertisements promising relief. Because we have no other recourse, we generally will run to the corner drugstore and buy an assortment of over-the-counter drugs to get some relief from our aches and pains. Collectively, we have probably taken millions of aspirin, swallowed pounds of throat lozenges, and drunk gallons of cough syrup.

I would venture to say that most of us do not have a difficult time following the directive on a bottle of aspirin or cough syrup that tells us when to discontinue its use—an indicator that it is no longer effective or needed.

In this body, we are having a difficult time discontinuing the use of the Davis-Bacon Act, even after 50 years. Instead of saying enough is enough, we have increased the dosage. Today, we still subscribe to the same law that finds its origins during the great depression.

In 1931, a low point in an already depressed economy, workers were willing to travel anywhere for practically any wage. Because of sinking wage rates, the Federal Government wanted to establish a floor and protect local com-

panies from traveling contractors who would undercut contracts with lower wages than those in the area. As a result, Davis-Bacon legislation was passed, specifying wage rates for Federal construction contracts over $2,000. Today, our economic climate is different—much different, but Davis-Bacon has grown to apply not only to Federal construction projects, but to all projects receiving Federal funds or loan guarantees. Is the need for such wage protection still central to the survival of Federal construction workers?

Besides the rebound of the economy, there have been a number of developments since 1931 that eliminate such a need. A Federal minimum wage was established with the passage of the Fair Labor Standards Act. In addition, strong labor unions are now a strong protector of wage rates. Historically the construction industry has been more unionized than other American industry and its wage rates are also among the highest in the Nation. The preeminent role that organized labor plays in guaranteeing a wage floor also continues to be an influence in getting special treatment in today's economy.

By keeping wages artificially high, competition is discouraged. It is this protection that impedes the competition that is so often lauded on this floor. It is the competitive nature of our economy that has contributed to its growth. Why don't we apply the idea of producing the best product at the lowest possible price in the area of Federal construction projects? We generally expect businesses to seek the lowest possible costs when producing a good or service, hoping the wise choice of resources will result in the lowest price for the consumer. However, this reasoning seems to change when the Federal Government is the consumer.

I find a similar pattern when I want to go out to dinner with my three sons who are presently struggling with the financial reality of being in college. If I ask them where they would like to eat, being students, they inevitably respond, "Who's paying?" If I pay, they seem to think we should go to the most expensive place in town. If they are paying, they are willing to go to a place that is substantially less expensive or they may even offer to make sandwiches at home. I would like to remind this body when the Government is paying, we, along with 500,000 other people from home, are footing the bill.

The Defense Department is repeatedly criticized by the liberal media for squandering funds in its contracting practices. Where is the criticism of the practices encouraged by Davis-Bacon? The Congressional Budget Office estimates that Davis-Bacon legislation adds approximately $1 billion (billion—not million) to total Federal construction costs. As a consumer and a taxpayer, it seems to me that in a time where it is absolutely vital to our Nation to exercise fiscal restraint, such a considerable savings to the Federal Government should be pursued. I personally think this extra expense created by Davis-Bacon is one expense that we can do without.

As Representatives, we must be sensitive to today's problems—here and now. The economic realities that we face today demand that we have the insight to eliminate unnecessary legislation and implement relevant solutions to today's problems. It is time to reexamine provisions prescribed under the Davis-Bacon Act passed during our country's most severe depression.

The ills Davis-Bacon tried to remedy are no longer with us. The extended applications of Davis-Bacon is now creating serious side-effects. Protectionist legislation, like Davis-Bacon, has become addicting to organized labor and it is also poisonous to a competitive and growing economy. Mr. Chairman, it is time to discontinue its use.

□ 1815

LOW INTEREST ISSUERS MAKE HEALTHY PROFITS

The SPEAKER pro tempore (Mr. CARPER). Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, it was with great interest that I recently reviewed a report on low interest rate credit card profitability. Michelle Meier of the Consumers Union supplied the report written by Stan West and Harry Snyder. It is an accurate and up-to-date compilation of information, both anecdotal and statistical, challenging the claim of big money-center banks that they do not charge excessive credit card interest rates. I hope that you and my colleagues share my interest in this information.

Credit card companies and the majority of card-issuing banks are adamant in disavowing that credit card interest rates are exorbitantly high. While allowing that they are profit motivated, they would like us to believe that they charge fairly and, far from abusing the consumer, they are providing an important service at a reasonable cost. I weep at the depth of their humanity. These plaintive affirmations ring somewhat disingenuous when the facts are exposed.

I am the last to deny the need of the banking community to make profits. Let them make big, enormous, record-breaking profits. But not unfair and duplicitously earned profits at the expense of the American people. We would certainly condemn the pagan ritual of human sacrifice but blithely ignore the pain inflicted as we allow credit card issuers to sacrifice the American consumer on the alter of avarice.

Profits made through sound investment, careful business practices, and innovation are the basis for progress in our proudly capitalistic society. While many large money-center banks cry out at what they call the unnecessary intrusion of Government into their businesses, I say that legislative action is our only recourse. It is not intrusive but protective; it is not motivated by the want to exercise unwarranted control but the need to defend an unsuspecting and guileless American consumer.

Over 75 million of us, 64 percent of all American families, possess a credit card. We average eight credit cards each, three of which are bank cards. We presently owe $80–$100 billion on those cards and will pay over $15 billion in interest charges this year. This interest, in addition to other fees and charges, contributed to over $5 billion in pretax profits last year, up from over $3.6 billion in 1985. This has become the single most profitable segment of the banking industry; the industry earns, on the average, 10 percent of its profits on 3 percent of its assets. Many large banks, BankOne of Chicago and Citibank for example, earn 25 percent to 30 percent of their profits from their credit card businesses. I shudder to think of how many high-risk loans are made to third world countries and in otherwise prohibitively high-risk areas of our own Nation, knowing that any losses incurred will be offset by the profits earned from bilking the American consumer with exorbitantly high credit card interest rates. I believe that the American public is starting to understand this.

Every recent poll has shown that the American public is fed up with the excessive rates they are charged. Yet, they feel helpless to resist. An NBC News poll asked, "Do you think Congress should pass legislation limiting the amount of interest credit card companies can charge, even if it means that it would be much harder for people like you to get credit?" The overwhelming majority—74 percent—responded yes. I consider that an emphatic mandate for this Congress to take action. What the American consumer realizes is that he and she are being taken. Taken by the largest players in the credit card market.

One of the reasons credit card interest rates remain so high is the dominance of the largest players. Of the almost 5,000 card issuers, the top 10 control 34 percent of the market. In what other industry would this kind of dominance be acceptable? Think about it—10 out of 5,000. Outrageous! Additionally, though certainly not surprisingly, the interest rate charged by these issuers is almost 1 point higher than the already excessive national average: over 19 percent.

It is important to remember that the smaller card issuers that are offering lower rates, and are frequently cited by the industry as examples of a prevailing competitiveness that does not rarely exist, do not benefit from the economies of scale that the larger issuers enjoy. Also, increased automation and a broader customer base further diminsh costs for the big guys. Yet, these financial bullies continue to ambush an unsuspecting consumer.

When credit card interest rates climbed to above 18 percent and additional fees and charges were introduced in 1981, card issuers pleaded increased cost of funds as their defense. By 1985 reduced interest rates neutralized that argument, so increased costs due to counterfeiting and fraud became the expedient excuse for maintaining high fees.

VISA is refunding $5 million to its members from its counterfeit insurance fund as a result of a dramatic decline in counterfeiting. Mastercard has eliminated its counterfeit assessment fee. I might also mention that overall fraud rates have declined as a result of tough legislative action originating in the Subcommittee on Consumer Affairs.

The latest argument is that credit card programs are expensive to administer. Yet, this doesn't explain why card issuers continue to eagerly acquire existing credit card portfolios. Charity toward the seller?

When American Express unveiled its 13.5 percent annual percentage rate OPTIMA card in March, Charles Russell, president of VISA, sent a mailgram to all VISA issuing banks recommending that the bankers "call Mr. Robinson (of American Express) and voice your displeasure over his decision to enter one of your most profitable lines of service." Mr. Russell's source of concern was the OPTIMA's "credit card service will have a far greater effect in the long run upon your bank's profits than will the much publicized Discover card." What Mr. Russell did not need to point out is that the Discover card carries a 19.8-percent interest rate versus OPTIMA's far more threatening 13.5-percent rate.

In 1986 American Express had a net profit of $1.1 billion, demonstrating an admirable profit making ability. I feel safe in concluding that American Express sees its 13.5 percent OPTIMA card as a profitmaking product. Low interest rate profitability is being demonstrated by banks in such States as Arkansas, Connecticut, and Massachusetts. These card issuers confirm my belief that a credit care interest rate cap will reduce rates, protect the consumer, and still allow care issuers to make a healthy profit.

The only reasons for these usurious and unnecessarily high interest rates are credit card issuer's greed and blatantly arrogant disregard for the American consumer. In the text that follows I will share with my colleagues the proof for this belief. Messrs. Snyder and West say:

John Corrado, the assistant vice president in charge of the credit card program at Peoples Bank in Bridgeport, Connecticut, said his bank is making a profit. Peoples offers credit at 11.5 percent. According to Corrado, Peoples was the first Connecticut bank to make such a "bold move."

"Before we lowered our credit card interest rate in June from 15.9 to 11.5, the other banks used to be our friends. Now they won't even speak to us since we started this major credit card war in Connecticut," Corrado said, boasting of the flood of 9,000 new applications in the first seven weeks of the year. Corrado credited the profitability of the credit card program to excellent management. "The key to our success has been our excellent management staff which helps us keep the costs down on our credit card program. It was the confidence in our management staff that prompted us, along with consumer interest, to make this bold move that gained us a market share. We studied the pros and cons of the move for a long time before we did it."

In June 1986, the State of Connecticut lowered its credit card usury ceiling from 18 percent to 15 percent. Instead of complaining, these Connecticut banks started a rate war. The result was that thousands of Connecticut residents switched to these banks, throwing away their 20 percent New York cards. At least one of these Connecticut banks is winning customers in New Jersey now with mail solicitations featuring lower rates. According to a prepared statement issued by the Consumers League of New Jersey, "The moral is that low-rate banks profit by beating high-rate banks. And Jersey banks will lose customers if they don't start competing with lower prices."

Some New Jersey bankers agree. Vincent Nardo, the vice president and manager in charge of the credit card program at First National Bank of Toms River, said his bank has been "very successful" making a four to five percent profit at 14.5 percent. "I think all the other New Jersey banks should be able to make a profit by lowering their credit card interest rates provided they run a tight, clean operation with few losses," Nardo said.

He said his bank's secret to success has been keeping their loan losses at one half of one percent. "Most banks experience a four to five percent loan-loss ratio. But by using good lending practices, we've been able to keep our loan losses at .5 percent." Nardo adds that competition as well as consumer pressure to fight higher rates or switch to low-cost banks has affected most New Jersey financial institutions.

Meanwhile, Bill O'Connell, the controller at Bank of New England Old Colony in Providence, Rhode Island, said his bank is also doing "quite well" on volume. "We get calls from as far away as Europe requesting corporate cards for executives," O'Connell said. Since last July, his bank has been at 12 percent for credit card holders. Despite the seemingly low rate he reports his bank is making a profit.

It appears clear that some banks and other financial institutions are able to profit with lower rates. Tighter management and better credit practices become essential as rates are lowered. But, the present situation in California appears to have consumers paying the highest credit card rates in the country and subsidizing poor bank practices.

According to a management discussion from Bank of America, the net income of BankAmerica Payment Services was $192 million in 1985, compared with $54 million in 1984 and $119 million in 1983. "The improved results in 1985 reflect a widening of the net interest margin on credit card business as increased non-interest revenue," the Bank of America industry report said.

A multi-million dollar class action lawsuit alleges that the bank card interest rates were "fixed" at an "unconscionable" level by the three largest California banks. Appel, a specialist in anti-trust cases, is pursuing the suit against Bank of America, Wells Fargo Bank and First Interstate because of what he claims is evidence that these banks worked together to fix prices in order to maintain high profits. "Price-fixings are naked violations of the state's anti-trust laws," Appel said.

Bank of America officials refused to comment to us on profits.

Philip Corwin, a legislative counsel with the American Banker Association in Washington, D.C., said, "There was no incentive for banks to compete when consumers were using more credits cards and more buying goods and services with these cards. When the consumers movement brought it to the attention of bankers that pricing was important, we began reassessing our situation."

"There is room for banks to lower their interest rates in order to compete. But we have to remember, price is not of great importance to all cardholders," said Corwin. However, an informal survey of at least 15 banks across the country revealed many cardholders care more about price than perks. And on the topic of profitability, none of the financial institutions polled said they were losing money as some of the larger banks would suggest.

Though the margain of profit varied from one financial institution to another, most reported or projected a profit.

"If we were not making a profit, we wouldn't be in this business," said Tom Paxton, vice president in charge of the credit card program at Simmons First National Bank in Pine Bluff, Arkansas. His bank's credit card interest rate is 10.5 percent. "Our application rate for credit cards is way up. We get 10,000 requests a month, approving about half of them."

The Associated Press ran a story in February with an Arkansas dateline quoting the president of Simmons saying that he thinks volume is the key to his bank's success, and that he was delighted to have significantly increased the bank's credit card portfolio size.

"Though it's too soon to tell just how profitable our credit card program is, the response from consumers so far has been overwhelming," said Carol Nicholas, the assistant vice president of the Bank of the Hills in Austin, Texas. Her bank charges 12.9 percent.

She said: "All the other banks are ripping people off. That's one reason why we lowered our rate in November. And we've received 12,000 applications and approved 8,000. We don't have any annual fee. We've been getting some complaints from people because we don't give someone a $5,000 line of credit just because they might have credit at another financial institution. We have to be conservative with who we issue cards to. Our caution will surely spell out P-R-O-F-I-T in the long run."

Steve Goodman, formerly the managing editor of a monthly newsletter of bank, legislative, consumer and media activity, reported that it is usually profitable for banks to lower their credit card interest rates if they are increasing their volume, gaining a market share while at the same time minimizing their loses due to fraudulent cardholders. "A well-managed bank operation can make lots of money at a lower rate," Goodman said.

Finance charges are not the only source of income for credit card programs. Wells Fargo's credit card fees increased 37 percent over 1984, primarily due to increase in the number of cardholder accounts in 1985 and late 1984, according to Wells Fargo industry reports. Wells Fargo also reported that the increase in domestic fees and commissions in 1985 was primarily due to higher domestic loan syndication fees, letter of credit fees and credit card merchant fees: "The largest component of domestic fees and commissions was credit card merchant fees, which were $19.2 million and $15 million in 1985 and 1984, respectively."

Another factor that contributes to profitability of low-cost banks is their high volume of cardholders, which keeps administrative costs per transaction relatively low. A primary factor in keeping the administrative costs down, is a growing conservatism among the nation's low-cost banks to limit their losses by becoming more selective

about who they give cards to, according to an informal survey of several banks.

On the question of profitability of low-cost banks, San Franscisco-based attorney Lawrence Appel explained: "There's a wealth of evidence that suggests that financial institutions charging less than 18 percent make a considerable profit. Credit unions, for example, don't charge more than 12 percent. They wouldn't be doing this if it meant shooting themselves in the head. Banks, credit unions and savings & loans outside of California have been charging lower interest for years and not taking a bath in red ink. Documents filed in the Federal Reserve Bank in Washington and San Francisco prove this also."

Despite evidence that profits would be made due to increased volume and good management, the large banks still refuse to lower rates.

According to the New York Times, (August 9, 1986), "Industry sources note that banks make more than 5 cents on every dollar lent through credit card operations, compared with one cent on other types of loans." The article went on to say that big banks resist cutting their rates because credit cards are "highly profitable," and analysts noted that any significant reduction could sharply cut into earnings. Mark Alpert of Bear, Stearns et al. said Citibank, for instance, generates about 20 percent to 25 percent of its earnings from credit card operations, and the New York Times reported BankOne of Columbus, Ohio, about 30 percent.

At the subcommittee markup on March 18, the subcommittee adopted my proposal capping credit card interest rates at 8 percentage points above the yield on 1-year Treasury securities in the constant maturities series. The rate would be adjusted quarterly based on the rate in the second month of the preceding quarter. If my legislation were in effect today, the ceiling would be around 15 percent. When H.R. 515 reaches the floor I will offer my interest rate cap amendment on behalf of the American consumer.

I chose Treasury securities because those rates are truly a free market rate, not one administered by banks themselves, such as the prime rate, or an instrument of monetary policy such as the Federal Reserve discount rate. I chose 1-year yields in an attempt to match the duration of credit card receivables. A quarterly index ensures that the rate would change frequently enough to be responsive to market conditions, but not so frequently as to require frequent monitoring. The Second month of the preceding quarter allows for sufficient lead time to prepare for a new rate. And I chose 8 percentage points to provide ample opportunity to cover costs and make a profit as well. The interest rate it would allow would be well above the level of many presently profitable banks. Anyone unable to make a profit by borrowing money at 6 percent and lending it at 15 percent should consider another line of work.

VLADIMIR AND MARIA SLEPAK GRANTED THE RIGHT TO EMIGRATE FROM THE SOVIET UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COUGHLIN] is recognized for 5 minutes.

Mr. COUGHLIN. Mr. Speaker, the Soviet Union today announced it is granting to Vladimir and Maria Slepak the right to emigrate from the Soviet Union. I want to congratulate the Soviet Union for that decision. Maria and Vladimir Slepak first applied to emigrate from the Soviet Union 17 years ago, and in 1977 their sons were allowed to emigrate from the Soviet Union to Israel. One of their sons now lives and studies medicine in my area of Philadelphia.

In 1978, Maria and Vladimir Slepak hung outside of their window a banner asking the Soviet Union to allow them to leave to join their son in Israel. For that their home was raided, the doors were broken down, they were removed forcibly, they were sent to prison. Vladimir Slepak was exiled to Siberia to a place where, as he said to me, Genghis Khan was born. He wife, Maria, joined him there for long years of privation.

Yet they came back with their heads held high and became leaders of the refusenik movement in Moscow. I have met with Vladimir Slepak and Maria Slepak back in 1985 when I first traveled to Moscow and again this past April in Moscow. I was worried because the Slepaks were one of a group of people that the Soviet Union said they would never release because they were the leaders of the refusenik community in Moscow. So it is tremendously heartwarming to hear the news that Vladimir Slepak will again be able to see his children whom he has not seen for 10 long years and to see his grandchildren whom he has never seen. This very courageous and articulate man with a very courageous and not-well wife has continued to lead the refuseniks in the Soviet Union, continued to provide them with support, continued to provide them with belief in their faith, belief in freedom, belief in their future.

The fact that this wonderful man and his wife will be allowed to emigrate to Israel is one that I believe is very important and in which I take very, very deep personal belief and satisfaction.

Now this does not mean that the problem of refuseniks in the Soviet Union is solved, it does not mean the Soviet Union has suddenly reformed. Much remains to be done, much remains to be done for the many thousands of Jewish refuseniks, of Christians, of others who want to leave the Soviet Union, who want to become a part of the world and who believe in freedom and exercise of religion.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. I would like to commend my colleague in the well for his dogged pursuit of the liberation of Vladimir Slepak. I know that the gentleman from Philadelphia has been actively engaged in this effort for years and I know personally about this effort when we traveled to Moscow in October 1985, 2 weeks before the 1985 summit. And I know how much time and effort he has spent with the Slepak family in Moscow and the kind of effort that he has made once he came back to publicize their plight.

I am familiar with the very excellent video tape that I had the good fortune to witness and hov that video tape was used. That video tape incidentally the gentleman from Pennsylvania [Mr. COUGHLIN] had made. That video tape was used on behalf of the effort, the nationwide effort to free Vladimir Slepak.

I can imagine that it must be a very good feeling for the gentleman tonight to know that that effort has borne fruit and I commend the gentleman.

Mr. COUGHLIN. I thank my colleague. Just let me say that I know over the years of his efforts on behalf of all of those who are persecuted in the Soviet Union, I know that they have been manifold because he indeed lived in the Soviet Union, indeed speaks fluent Russian and indeed knows the plight of people of various persuasions in the Soviet Union and their difficulties.

I know that when I was last in the Soviet Union in April, as we were leaving I said to General Secretary Gorbachev that if he would let Vladimir and Maria take our seats, my wife, Susan, and I would give our seats up so they could come back here.

The gentleman from Pennsylvania has done the same kind of thing in a very courageous and heroic effort to help people in the Soviet Union who desperately need our help in times of persecution.

THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CROCKETT] is recogized for 5 minutes.

Mr. CROCKETT. Mr. Speaker, on October 7, 1987, Ambassador Patricia M. Byrne, Alternate United States Representative to the 42d Session of the United Nations General Assembly, made a very important statement in the U.N. Third Committee on "The Elimination of all Forms of Racial Discrimination." In that speech, Ambassador Byrne set forth United States policy toward the elimination of South Africa's apartheid system. I believe that the speech was a significant step in the right direction. It was, perhaps, the strongest, the

most forthright statement of opposition to apartheid that the Reagan administration has made to date. I would, therefore, like to share it with my colleagues and ask that it be included in today's CONGRESSIONAL RECORD.

I must, however, raise two caveats. First, Ambassador Byrne states that "We have, nevertheless, opposed mandatory punitive economic sanctions against South Africa * * *." Instead of "We," I would argue that the Ambassador should have said "the Reagan administration." Certainly, the Congress—and I believe the majority of the American people—are not opposed to sanctions against the apartheid regime.

Second, Ambassador Byrne notes that "the United States will enforce—last year's congressional mandated—sanctions to the letter." I must question the extent to which that assurance is likely to be fulfilled, particularly with respect to the international arena. The Comprehensive Anti-Apartheid Act of 1986 provides that—

The President or, at his direction, the Secretary of State would convene an international conference of the other industrialized democracies in order to reach cooperative agreements to impose sanctions against South Africa to bring about the complete dismantling of apartheid [Sec. 401 (b)(1)].

This provision of the law has simply been ignored: There has been no such international conference. Moreover, the act expresses the—

sense of the Congress that the President should instruct [our U.N. representative] to propose that the United Nations Security Council . . . impose [anti-apartheid sanctions] against South Africa of the same type as are imposed by this Act [Sec. 401(e)].

Here, if the administration has not violated the letter of the law, it has surely not adhered to the spirit of the law. Indeed, on February 20, 1987, the United States vetoed a U.N. Security Council sanctions resolution modeled after the provisions of our own act.

In its report to the Congress on the effectiveness of the Anti-Apartheid Act, the Reagan administration predictably argued that sanctions had not worked. I would point out—as have others—that had the administration faithfully implemented the international provisions of the act, economic sanctions would have been profoundly more effective.

STATEMENT BY AMBASSADOR PATRICIA M. BYRNE

Mr. Chairman, my delegation wishes to address the agenda item entitled Elimination of All Forms of Racial Discrimination.

The United Nations Charter makes clear that human rights and fundamental freedoms must be protected for all without distinction as to race, sex, language, or religion. The Universal Declaration upholds the same principle.

The United States is a multiracial nation built by people of every country, race, and religion in the world. The principal reason tens of millions of persons have come to this country is the old one of the search for freedom: political, religious, and economic freedom. We pride ourselves on having built a country based on an ideal: that a person not be judged by his religion, politics, ethnic origin, or race; that everyone has rights which must be protected so that he can participate in the nation's social economic, and political life.

Living up to this ideal is not easy; on many occasions we have failed to do so. Unlike some political systems, we do not claim perfection; we hide nothing; we admit our failings. You can hear and see us debating solutions to our problems in our publications, television programs, election campaigns, and legislatures. One problem with which we have grappled has been that of racism. We have made great progress. Our struggle against racial intolerance has been characterized by some of the worst and some of the most inspiring chapters in our history. That struggle is not over; it is one which will be won.

Our history, our ideals, the nature of our people leave us no option but to oppose ideologies and systems based upon the rule of a self-appointed elite claiming a "revealed truth" justifying oppression. Those factors drive our opposition to Soviet Communism as much as they drive our opposition to the racist apartheid system that rules the people of South Africa.

Mr. Chairman, in case anyone should doubt it, let me state that the United States firmly believes that apartheid cannot be justified. Apartheid must end. The international community has the responsibility to work for the elimination of apartheid. All ideas, attitudes, and economic and political systems that condone slavery, segregation, discrimination, or any other form of subjugation of the individual denigrate victim and perpetrator. Apartheid denigrates all the people of southern Africa.

As we have stated on previous occasions, our opposition to that inhumane system which has brought so much death and misery pushes us to seek ways to dismantle apartheid without increasing the suffering of the people of southern Africa. We must consider carefully the consequences of our actions lest they increase the suffering of the people in whose behalf we act. Calls for violence will bring violence. They serve only to undermine the determined struggle by the majority in South Africa—who, let us not forget, ever more skillfully use their economic clout in the cause of a better life.

As you know, Mr. Chairman, the United States has long had a variety of sanctions against South Africa—our arms embargo pre-dates that of the UN by several years. We have, nevertheless, opposed mandatory punitive economic sanctions against South Africa as counterproductive and as hurting precisely those persons less able to resist them. The Congress of the United States, however, passed legislation last year imposing some of the toughest sanctions in the world, including those of the Front Line States. We are a nation of laws, Mr. Chairman, and consequently, the United States will enforce those sanctions to the letter. We will fight any effort to violate or otherwise circumvent those sanctions.

Despite a hardening of South African attitudes since our imposition of sanctions last year, the United States will not disengage from efforts to promote peaceful change in South Africa. The realities there are grim: increased repression, censorship, violence, and fear. But there are also elements of hope: the Natal Indaba, the ANC-Afrikaner talks in Dakar, growing black economic organizational strength, and the conciliatory influence of religious leaders.

Our policies seek to build on those elements of hope. We aim to provide assistance to the victims of apartheid and to prepare them for increased economic and political responsibilities in the future. Our assistance has focused on increasing educational opportunities for the black majority, training in leadership skills, and strengthening community organizations, labor unions, legal resource centers, and black-owned enterprises. These efforts will continue. We support practical steps to bring a peaceful end to apartheid. Among those are the release of all political prisoners, including Nelson Mandela, and the end to bans on political parties.

Mr. Chairman, on September 29, Secretary of State Shultz spoke before the Business Council on International Understanding and discussed our hope for South Africa's future. We would like to see in South Africa:

A new constitutional order establishing equal political, economic, and social rights for all South Africans without regard to race, language, national origin, or religion;

A democratic electoral system with multiparty participation and universal franchise for all adult South Africans;

Effective constitutional guarantees of basic human rights for all South Africans as provided for in the Universal Declaration of Human Rights and the canons of democracies everywhere;

The rule of law, safeguarded by an independent judiciary with the power to enforce the rights to be guaranteed by the constitution to all South Africans;

A constitutional allocation of powers between the national government and its constituent regional and local jurisdictions in keeping with South Africa's traditions; and

An economic system that guarantees economic freedom for every South African; allocates government social and economic services fairly; and enables all South Africans to realize the fruits of their labor, acquire and own property, and attain a decent standard of living for themselves and their families.

To quote Secretary Shultz further: "These are ideas that we believe would help South Africans chart their own path to a democratic and prosperous future. We Americans do not claim a monopoly on democratic concepts for another country, but we have every reason to make clear our hopes and visions. I challenge South Africans to rise to the test of building a future which takes these ideas into account."

Mr. Chairman, before concluding these remarks I want to mention another important factor that Secretary Shultz discussed: the powerful force of religion in South Africa. He noted that South Africans are a devoutly religious people. Churches, some of them integrated, represent "institutional channels for dialogue and reconciliation across racial barriers." The Dutch Reformed Church, the largest Afrikaner Church, claimed, until last year, that apartheid was not only allowed but actually required by the teachings of the Bible. Last year, after months of internal debate, the Church announced that its previous teachings were wrong: Apartheid is not justified by the Bible and is not in accordance with Christian principles. Secretary Shultz said: "This simple but powerful truth hit like a thunderbolt among Afrikaners. Suddenly the spurious moral basis for apartheid had been stripped away, revealing if for the unjust and unsanctified system that it is."

In conclusion, we think that the only effective manner to fight apartheid in South Africa is through peaceful change. Violence brings only suffering, and, Mr. Chairman, violence will mean only defeat for the democratic foes of apartheid; it will leave only a devastated landscape and economy incapa-

ble of giving life to the dreams so many of us have for South Africa. My country stands ready to assist, as it has done for 200 years, all those who seek to promote democracy and justice.

PARLIAMENTARY INQUIRES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, I take this time to propound primarily a parliamentary inquiry.

Mr. Speaker, is it within the rules of the House for committees to hold hearings where only one side of an issue is presented?

The SPEAKER pro tempore (Mr. CARPER). Under rule 11, the minority party within a committee is entitled to have 1 day's worth of witnesses, although apparently there is no rule relating to witnesses on different sides of the issue.

Mr. WALKER. So, if I understand the Chair, if a hearing is held where the minority has had no input into the witnesses, under the rules of the House that committee chairman would have to grant the minority at least 1 day of hearings for the purpose of hearing witnesses from the minority side.

The SPEAKER pro tempore. The Chair's understanding of the rules is the minority party would be entitled to 1 day's worth of witnesses.

Mr. WALKER. What the Chair is telling me is that the minority party then could get opposition witnesses but there is nothing within the rules that absolutely requires that anybody be heard on a different viewpoint before the committee, is that correct?

The SPEAKER pro tempore. The rules do not speak to that specifically.

Mr. WALKER. A further parliamentary inquiry, is it within the standard practices of the House to have committee hearings where only one side of an issue is heard?

The SPEAKER pro tempore. The Chair cannot comment on the types of witnesses that are called by a committee.

Mr. WALKER. I thank the Chair. I raise the issue only because we seem to have a situation arising in one of the committees of the House; namely, the Judiciary Committee where they are about to hold a hearing tomorrow where evidently the only people who have been invited are people opposed to the balanced budget amendment of the Constitution.

Now it seems to me that tells us a great deal about the Democratic leadership of this House. The Democratic chairman of the Judiciary Committee has made a conscious determination that we are going to hold a hearing where only the opponents of the balanced budget amendment of the Constitution are going to be heard and we do not know at the present time of any provision having been made to hear the views of the proponents of that amendment at any particular time. In fact, some of those who have called the committee staff and talked to them about that hearing tomorrow have been told that this hearing is for opponents only, that they would not be welcome to participate. It seems to me that if it is not outside the rules of the House to do that, it is certainly outside the standard practices of the House. Normally, what we do in this body is allow all sides of questions to be heard at least in the committee process. It is very difficult to do out here on the House floor sometimes to get all sides heard under the restrictive rules we sometimes operate under, but generally the committees at least allow full debate.

It appears as though we are going to have at least one hearing tomorrow on the balanced budget amendment to the Constitution, one of the most important issues this country wants addressed, that will not include all sides of the issues, where the judgment will be made that only those people who are opposed to the amendment are going to be heard in the House of Representatives in the committee of jurisdiction over that particular amendment.

That is wrong and it is high time that we have people on this floor, hopefully both in the majority and in the minority parties, speak up to this blatant attempt to shut down free discussion of issues in the House of Representatives. We have seen this pattern develop over and over again. We are seeing it with restrictive rules, we are seeing it with the kinds of bills that are often brought out here that do not allow full debate. It seems to me it is high time now when we are starting to shut down the witnesses that are granted before committees that we speak up and say that that has gone much too far.

So, I would hope that this is an aberration. I hope that the chairman of the Judiciary Committee will reconsider and that we will be allowed a full discussion of the balanced budget amendment, one of the more important causes that the American people wish to address.

I would be very glad to yield to the gentleman from Maryland.

Mr. HOYER. I very much appreciate the gentleman from Pennsylvania yielding. I got over here a little late.

The gentleman speaks of issues on which there is genuine disagreement. I appreciate his view on that.

I come to first of all, say to my colleague from Pennsylvania, your colleague from Pennsylvania, Mr. COUGHLIN, that his efforts in my opinion, in no small part, are responsible for bringing the message to the Soviet Union on an issue on which there is no disagreement in this House and that is that the Helsinki final act guarantees and other guarantees that give people the very basic human right of having the ability to decide where in this world they want to live, with whom they want to live and when they want to be either in their own country or in some other country, should be observed.

In the particular case, the very poignant case of Vladimir Slepak, the gentleman from Pennsylvania [Mr. COUGHLIN] has been particularly interested, committed and faithful and I want to congratulate him for his efforts and, of course, all of us join in giving to Vladimir Slepak our very best wishes and hopefully we will be able to give to him a cordial welcome when and if he has the opportunity of visiting the United States.

I want to thank my colleague from Pennsylvania for yielding.

Mr. WALKER. I thank the gentleman. I, too, know of my colleague from Pennsylvania's work, having been with him in the Soviet Union in October 1985 when we too met with this family. It is indeed good news that they are going to be permitted to emigrate from the Soviet Union.

I yield to the gentleman from Delaware who has now assumed his position on the floor rather than at the chair.

Mr. CARPER. We are not playing musical chairs, although it looks that way.

Let me just say as one of the four principal coauthors of the balanced budget amendment that the gentleman from Pennsylvania has referenced, I am aware of the hearing scheduled for tomorrow being devoted to the four witnesses in opposition.

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My understanding is that we will also be permitted another day of hearings for those proponents, including myself, and presumably the gentleman from Pennsylvania and others will have an opportunity to have their voices heard.

Mr. WALKER. Mr. Speaker, I thank the gentleman for that information.

Do we have any idea when those hearings are going to be held? The word we got when we asked that question was that it could be 3 or 4 months from now when that additional day of hearings comes about. Does the gentleman have any information as to when those hearings are going to be held? I ask that because it certainly appears as though these hearings are going to be held as a way of trying to stop people from signing on to the discharge petition which is at the desk where we are trying to force action on the floor by the end of the session. We are a little bit concerned about that.

Would the gentleman have any information along those lines?

Mr. CARPER. Mr. Speaker, I do not know what point in time the gentleman from New Jersey [Mr. RODINO] has in mind. I would certainly encourage him to hold those hearings within the month.

Mr. WALKER. Mr. Speaker, I thank the gentleman. I appreciate that because we are certainly concerned about what we are hearing coming out of the committee at the present time.

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

A NEW REIGN OF TERROR IN HAITI

The SPEAKER pro tempore (Mr. CARPER). Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, a new reign of terror has begun in Haiti. The last reign of terror began when the people of Haiti came out and voted 90 percent in favor of a new constitution. That new constitution provided for a series of deadlines to launch an electoral process which would conclude on November 29 with the election of a new president for the Republic of Haiti.

The people in charge at that time, the transitional government head, General Namphy, and his cohorts decided they would take over the election process. They panicked. They never thought the people would approve the constitution, so they decided to take it over, and as a result there were demonstrations throughout Haiti and a number of people lost their lives.

That reign of terror finally ended, partially through the pressure of the U.S. Government to force the Namphy transitional government of Haiti to give up its desire to take over the electoral process. They yielded to the election commission, the electoral process went forward, and the killing stopped for a while. During that period, however, there was one candidate for president who was killed. He was hacked to death in broad daylight by a group of men who walked away and have never been caught.

Yesterday the latest reign of terror was initiated with the killing of another candidate for president. This candidate was shot and killed on Tuesday in front of the police station in Port-au-Prince. He had come to the police station, had called a press conference, and in a speech was demanding the release of another candidate who had been put in jail by the police. While he was speaking and while reporters were gathered around him, plainclothes police came out of the station. They approached him, they beat him, and they shot him. The name of that candidate is Yves Volel. He was killed in front of the police station in Haiti. There were reporters and television cameramen there, and they filmed the entire incident. The police confiscated the cameras and drove the reporters away afterward. The police have now made the statement that he was killed because he had come to the police station with a band of armed men. Everybody knows that he had no armed men with him.

Yves Volel was a citizen of New York. He had lived for a long time in New York City. It is important to take a moment and look at the background of Yves Volel, because one problem we seem to have in America is that there is no empathy with the struggle in Haiti. Haiti in only 90 miles from the shores of the United States, and yet we do not seem to be concerned at all with their struggle for freedom. We do not seem to be concerned about the fact that the people of Haiti are overwhelmingly in favor of democracy. They have come out and voted for a constitution. They are ready to go forward and rebuild their nation along democratic lines. They want these elections to go through, they want to complete the cycle, and they want to have a president by November 29. But a small band of armed, uniformed thugs, military terrorists, is determined that the process will not go forward.

While this happens, we in the United States sit and watch and do nothing. The Organization of American States sits and watches and does nothing. The United Nations does nothing. But Yves Volel was a human being, a magnificent leader, and he deserved to live. He deserved to participate in the process as a candidate, and now he is gone. He lived for a long time in New York City during exile from Haiti. He has a wife and family right now in Queens, NY, living in the district represented by my colleague, Congressman FLOYD FLAKE. Mr. Volel once attended the military academy with General Namphy who heads the government in Haiti now. He had a reputation generally in this country as a good, decent man who was a civil libertarian.

He was committed to democratic government, and he was willing to fight for what he believed in, but the police say he was an armed bandit and came to the station seeking to cause trouble. In Haiti the comment is that this is a pack of lies.

They are turning the whole world upside down. One of the key drafters of the constitution of Haiti has said that this slaying of Yves Volel was part of a plan to create an insecurity that would make the holding of fair elections in November difficult.

Today it is Volel, tomorrow it will be someone else. I have always contended that the process in Haiti should be assisted by outside forces, not military forces, but peaceful forces. We should make it clear to Haiti that we are watching. We should have groups monitoring the situation. We should have the participation of the Organization of American States. We should finance, if necessary, a team of people who would stay there permanently to monitor the elections until November 29.

Mr. Speaker, the majority of the democratic people of Haiti have spoken. They want a democratic society. They have a constitution, and they should be protected. They should be protected from the uniformed, armed military bandits who are determined to have it their way.

A SALUTE TO MR. PHIL CHELNICK—OHIO SENIOR CITIZEN HALL OF FAME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STOKES] is recognized for 5 minutes.

Mr. STOKES. Mr. Speaker, on October 29, 1987, the Ohio Department of Aging will hold its 11th annual Ohio Senior Citizens Hall of Fame induction ceremony. This year nine individuals will be honored for their vital role in the community. I am pleased to report that Mr. Phil Chelnick, a resident of my congressional district, is among those being honored.

A longtime community activist, I can think of no one more deserving of this special honor. Mr. Chelnick founded the Social Action Committee of the Jewish Community Center Senior Adult Department and has served as its chairman for 14 years. The committee was established to create a vehicle for adult advocacy and involvement in issues of concern. The Social Action Committee has worked in areas such as housing for the elderly and against cuts in Social Security and Medicare. Mr. Chelnick has also served as chairman of the center's house council. However, his interests have not been limited to the problems of the elderly. He has also worked against budget cuts for the needy, and in support of a nuclear freeze.

Mr. Chelnick is the recipient of numerous awards and citations for his efforts, including the Jewish Community Center's Leonard Kronenberg Award for Outstanding Service and the Senior Adult Leadership and Community Service Award of the JCC. He was named as one of six outstanding seniors in Ohio in 1973 and has served as a delegate to the White House Conference on Aging.

In 1986, Mr. Chelnick served as my Congressional Senior Citizen Intern on Capitol Hill. Brimming with enthusiasm and vitality, he did an excellent job of representing the concerns of seniors in the 21st Congressional District and throughout the Nation.

Mr. Speaker, I am pleased that the Ohio Department of Aging will be recognizing these special individuals for their tireless efforts and significant contributions to our community. It is an honor to salute my friend, Phil Chelnick, on this occasion.

CUBAN FOREIGN POLICY—THE FOUNTAINHEAD OF INSURGENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LUNGREN] is recognized for 60 minutes.

Mr. RITTER. Mr. Speaker, will the gentleman from California yield briefly?

Mr. LUNGREN. Certainly, I am happy to yield briefly.

AWARDING OF NOBEL PRIZE FOR PHYSICS

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, today there was a significant announcement of the awarding of the Nobel Prize for Physics to Dr. J. Georg Bednorz and Dr. K. Alex Mueller, who received the Nobel Prize for Physics for their discoveries in the field of superconductivity.

We can be very proud of them, although this was a German and a Swiss national. They were working quietly for the IBM Co. in a Zurich research laboratory.

I think this points up the internationalization of science and how international cooperation is so beneficial. I think it also points up great challenges for us as a nation, and I am hoping that with the achievement of the winning of the Nobel Prize in Physics for superconductivity by these researchers, our Government, our industry, and our people will pay attention to this potentially explosive field and seek to do what is right and put forth the appropriate resources so we can have an American effort that will lead the world.

The possibilities of losing out in this spectacular competition are there, and we should try to minimize the problems and we should try to be as competitive as possible with our Japanese and European counterparts.

Mr. Speaker, I will close by saying that it is a geat race. It is like the Olympics. We are very much a part of it, and to the victors will go many spoils.

Mr. LUNGREN, I thank the gentleman from Pennsylvania [Mr. RITTER] for his comments.

Mr. Speaker, in August, a new wave of optimism splashed across the nations of Central America. President Arias of Costa Rica negotiated a peace plan with four other Central American governments. Admirers of the accord proclaimed a new era of tranquility and independence in Central America. Unfortunately, a close examination of the Caribbean basin's strategic realities reveals little basis for such hopes.

To put it bluntly, Mr. Speaker, the nature and implementation of Cuban foreign policy has thrust that radical dictatorship into the stature of a superpower. The essential role which the destruction of the Latin American status quo plays in Cuban policy means that every pro-Western country in the Western Hemisphere must worry about Fidel Castro. And the extraordinary boldness of Cuban support for insurgencies means that many of these democracies must regard Castro as a threat to their survival. In short, the present character of Cuban foreign policy has become incompatible with stability in the Americas.

Prior to the success of his insurrection against the Battista regime, Fidel Castro composed an ominous message to his confidante, Celia Sanchez:

> I swore to myself that the Americans were going to pay dearly for what they were doing. When this war is over, a much wider and bigger war will begin for me: the war I'm going to launch against them.

FORMULATING CUBAN FOREIGN POLICY

In 1986, a violent crusade against imperialism remains as central to the objectives of the Cuban Government as it did to the world view of Fidel Castro in 1958. Raymond Duncan, a political science professor at the State University of New York at Brockport, has observed that the essence of Cuban foreign policy arises from the interplay between nationalism, domestic Communist ideology, and Castro's Leninism. Writing in "Historical Antecedents of Cuban Foreign Policy," an essay contained in the sixth edition of the authoritative "Cuban Communism," Duncan argues that government ideology underpins the Havana regime. Castro's vision of a society in "total revolution" theoretically unites the people with their leaders. Revolutionary ideology, Duncan says, "helped to build a Cuban national conscience after 1959, serving as a basic communication system through which to mobilize Cubans for new national commitments. Fidel Castro, Ernesto Che Guevara, and other members of the revolutionary elite have linked the themes of anti-imperialism, class struggle, socialist unity and economic determinism to the creation of a 'new man' possessed of the technical and cultural skills required to forge a new Cuba." This ongoing construction of a completely new society legitimizes the leadership's decisions, and it gives Cubans a justification for hope when those decisions prove unwise. The sustenance of a living ideology has thus become imperative for Havana policymakers.

Foreign policy obligations stem from this requirement. As a Leninist, Castro believes that international relations rest on a dialectical fault in which socialism and international capitalism struggle implacably against one another. Professor Duncan notes:

> According to the script, the Western enemies, led by the United States, will seek to maximize power at all costs.

The forces of "imperialism" will never acquiesce in the creation of a "new man," Cuban or otherwise, because such an acceptance would jeopardize the capitalist status quo. It would also interrupt the dialectical cycle of which Leninist historiography consists. The maintenance of ideology for purposes of internal mobilization embroils Cuba in an unceasing conflict with America and her friends in the Western Hemisphere.

Havana, it should be added, expects nations friendly to Cuba to share this perspective. Juan Valdes Paz, a senior Cuban intelligence official, universalized the dialectic of revolution in a 1985 essay for Contemporary Marxism. In "Cuba and the Crisis in Central America," Paz even identifies neutrality in Central America with opposition to the West. Paz states that:

> Nonalignment is a historical result of the Central American peoples' struggles for full national independence and of their opposition to the global and regional strategic interests of imperialism, principally U.S. imperialism.

The Cuban Government cannot accept democracy in its sphere of influence because its leaders hold, as a matter of dogma, that democracy will never tolerate the Havana regime.

Castro began the implementation of his international objectives even before he came to power. According to Luis Aguilar, a professor of history at Georgetown University, Castro enlisted with the radical Caribbean Legion in its scheme to remove the Dominican dictator Trujillo from power. In addition, Castro may have participated in political riots in Bogota in 1948.

Castro's insurgent proclivities continued after his victory in 1959. Professor Aguilar notes:

> Once in power, and even before his Marxist proclamation, he sent expeditions to Panama and the Dominican Republic. By 1961, he was bitterly denouncing his former protector, Venezuelan president Romulo Betancourt and all Latin American oligarchies.

On January 31, 1962, the Organization of American States ejected Cuba for its sponsorship of guerrillas in Venezuela.

In response, Castro announced the Second Declaration of Havana. He asked Latin Americans to "follow Cuba's example" and initiate guerrilla warfare. Writing in the second 1987 issue of Terrorism: An International Journal, R.A. Hudson of the Library of Congress observes that Castro went much farther than mere declarations. Hudson states:

> To provide support mechanisms, Castro and Guevara formed three Liberation Committees—organized regional for the Caribbean, Central America, and South America—that became known as the Liberation Directorate. The committees were designed to plan guerrilla and other subversive acts and to provide logistical arrangements for sending agents to the different regions.

Hudson adds:

> Evidence emerged that American Department chief Manuel Pineiro was directing guerrilla groups in the early 1960s when the

Colombian Army found a letter written by him to a group of Colombian rebels, whom he told to carry out Cuban instructions exactly as instructed or their monthly payment would be reduced.

Castro, it seems, had begun a covert war against Latin America.

Mr. Speaker, it seems crucial in the light of these historical events that the congressional leadership carefully scrutinize potential agents of change in Central America and evaluate which mechanisms will prove most resonant in a cabinet of committed Leninists. Some on Capitol Hill have argued that it is no longer necessary for the Nicaraguan democratic resistance to apply military pressure on the Sandinistas. They contend that diplomatic exertion alone will bring at least elements of democracy to Nicaragua. Yet, when confronted with severe diplomatic condemnations from the OAS 25 years ago, Castro, the patron of the Sandinistas, actually escalated his involvement with terrorism and insurgency. If Messrs. Castro and Ortega routinely trample over the preferences and opinions of their own citizenry, why should international opprobrium disturb them?

RELIANCE ON THE GUERRILLA VANGUARD

In the mid-1960's, Che Guevara and the French Marxist philosopher Regis Debray articulated a strategy of revolution in which political and military upheaval would engulf the Western Hemisphere. Unlike their Soviet allies, the Cubans rejected objective, deterministic patterns of historical development. To the initial chagrin of Moscow, they declared that they would not wait for the unfolding of socioeconomic crises to permit Marxist political parties to lead the proletariat to victory. In Guevara's subjective theory, the vanguard of the people would not merely lead the revolution, but initiate it. Trained and guided by Cubans, guerrilla vanguards—as opposed to the veteran political activists regarded by Castro as moribund—would transport the peasantry of the Western Hemisphere into a revolutionary society. Without even the economic prerequisites for class war or the existence of an urban proletariat, Havana would seek to explode the capitalist status quo immediately.

Castro endorsed the Guevarist path through words and deeds. In a 1967 speech, he stated:

> Whoever denies that it is precisely the road to revolution which leads the people toward Marxism is not a Marxist though he may call himself a Communist.

To transform the heretical strategy into action, Castro hosted and manipulated a Soviet-sponsored conference of Third World Marxists in 1966. As R.A. Hudson of the Library of Congress has pointed out, Castro changed the so-called Tricontinental Conference into a Cuban vehicle for the guerrilla vanguard. Hudson reports:

> Castro promised the delegates, that "any revolutionary movement anywhere in the world can count on Cuba's unconditional support." Cuban support was no longer entirely unconditional, however * * * it was now contingent on recognition of: (1) Cuba's present and future military role in Latin American guerilla operations, and (2) undisputed Cuban political leadership and direction of Latin American revolutionary movements.

Mr. Hudson continues:

> Castro clearly upstaged the Soviets at the Tricontinental Conference, but he partly appeased them by using the occasion to break with China and denounce and exclude the Trotskyites. He also ensured that the series of "armed struggle" resolutions adopted by the conference targeted mainly Colombia, Peru, and Venezuela—countries without major diplomatic or trade importance for the Soviets . . . By the end of 1966, Cuba had opened more than a dozen international guerrilla camps under the supervision of Soviet Committee of State Security [KGB] Colonels Vadim Kochergin and Viktor Simonov.

Through the Tricontinental Conference, Castro engineered a watershed in the political development of Latin America. Marxists throughout the region bypassed the patient, old Communist parties and pressed for the turmoil they believed would bring the peasants to power. Significantly, delegates to a 1967 conference of the Latin American Solidarity Organization resolved that "the guerrilla is the nucleus of the liberation armies, and guerrilla warfare constitutes the most effective method of initiating and developing the revolutionary struggle in most of our countries." Perhaps more importantly, Castro succeeded in integrating Moscow—and thus the entirety of the Soviet bloc—into the geopolitics of the Western Hemisphere.

THE SOVIETS MOVE IN

By the 1970's, the Soviets had become enthusiastic about prospects for political gains in Latin America. Boris Ponomarev, a theoretician and member of the Soviet Central Committee, expressed this optimism in a 1971 article for the periodical Kommunist. He wrote:

> Seemingly quite reliable rear lines of American imperialism, are becoming a tremendous hotbed of antiimperialist revolution. A tremendous revolutionary movement is developing by the side of main citadel of imperialism, the United States. These changes are having and, unquestionably, will continue to have a strong impact on further changes in the correlation of world forces in favor of the international working class and socialism.

By 1975, the Soviets had achieved trade relations with some 20 countries in the region and had entered into commercial accords with multilateral organizations like the Latin American Economic System.

In "Central America and the Caribbean: the Larger Scenario," an article for the summer 1983 issue of Strategic Review, Freedom House scholar Bruce McColm discusses the Soviet intervention in Latin America. He writes:

> By the mid-1970s, the Soviets had large diplomatic, economic, cultural and scientific missions throughout the Caribbean and Central America such as in Costa Rica, Venezuela, Trinidad and Tobago, Guatemala, Nicaragua and Jamaica. These missions, besides cultivating indigenous cadres through an extensive KGB infrastructure, sought on a more practical level to encourage the governments in the area to play a more active role in the politics of the Third World at large, with particular attention to coordinating commodity export prices, policies toward multinational corporations and Third World debt, and advocating "anti-imperialist" and "anti-colonial" positions in various international organizations.

Mr. Speaker, the success of President Arias in Guatemala City 2 months ago has led many in the congressional leadership to believe that the Soviets will soon willingly depart from Central America. Premature reports of Soviet unwillingness to supply oil to Nicaragua have encouraged such optimism. Unfortunately, these hopes do not conform to either present or historical reality. In the fall 1987 edition of Foreign Affairs, Susan Kaufman Purcell, the director of the Latin American Program at the Council on Foreign Relations, dismisses the oil shortage myth in an important footnote. She writes:

> Despite reports of a declining Soviet oil supply the Soviets delivered 2.1 million barrels in 1986 and have promised to deliver the same amount in 1987, according to Henry Ruiz, the Nicaraguan cabinet minister who coordinates foreign aid. Moscow has, however, refused to provide additional oil to the Sandinistas to make up for a decrease in shipments from Eastern Europe. Western diplomats say Moscow is trying to force the Sandinistas to get oil from places like Venezuela and Mexico, but will ultimately supply more oil if the effort fails.

As Mr. McColm of Freedom House has pointed out, the Soviets have in fact a longstanding commitment to the influencing and destabilization of Latin America. Moscow has established extensive diplomatic and intelligence networks in Central America and South America. Given this fact and the opportunities presented by Sandinista air bases for the surveillance of the west coast of the United States, it seems highly unlikely that the Soviets will happily disembark from Nicaraguan shores.

DIVERSIFICATION OF CUBAN FOREIGN POLICY

As a result of the 1967 slaying of Che Guevara in Bolivia and Cuba's increasing dependence on the Soviet Union, some scholars have come to believe that the Guevarist "foco" theory no longer has any bearing on Castro's policies of revolution. One must grant that in the past 20 years, Castro has significantly diversified his foreign operations. During the 1970's, he attempted to assume a leadership role in the Third World, and did in fact serve

as president of the Nonaligned Movement. Cuba's rigid adherence to the Soviet line in the wake of the Afghanistan invasion ended Castro's broad Third World aspirations.

According to Tad Szulc, a veteran New York Times correspondent and a biographer of Castro, the dictator has recently exploited tensions in United States-South American relations and thereby scored diplomatic breakthroughs. Castro has declared that the debt crisis must be resolved through government-to-government political talks. Through this statement and through his call for a debt cartel, he has tried to assume the mantle of a fraternal leader of beleaguered debtor countries. He has already identified himself as a Latin nationalist by siding with Argentina in the Falklands conflict. The payoff from these efforts appears to be substantial. In 1985, Cuba received a $300 million loan from Argentina. Last year, Brazil renewed diplomatic ties with Cuba and indicated that improved economic relations may follow. Mr. Szulc surmised the diplomatic horizon correctly when he stated in a May 1985 New York Times essay that Cuba had ended its location in Latin America.

Dependent on its sugar crop and addicted to Soviet subsidies, the Cuban economy clearly cannot serve as the foundation for further enhancement of Havana's international authority. To achieve the latter goal, Castro has greatly expanded his nation's military power. In the Strategic Review article I cited earlier, Bruce McColm estimates that the Cubans have about 120,000 men in their standing armed forces. He says that about 60,000 men serve in the ready reserves, about 175,000 in the second line reserves, and about 100,000 in the Army of the Working Youth. Back in 1981, the Havana regime created the Territorial Militia for the defense of the island against invasion. Approximately 500,000 soldiers serve in this new unit. The Washington Times reported in November of last year that in Cuba there are 25.3 active duty troops for every thousand citizens. In the United States, there are 9.5 such troops for every thousand Americans.

Unfortunately, one cannot explain this astonishing militarization of Cuban society on the grounds that Havana fears an attack from democratic forces. On the contrary, a closer look at the character of Cuban armed forces uncovers their offensive orientation. The Soviets have in recent years provided Cuba with 15 to 20 of the sophisticated Mig-23 attack fighters, bringing the total Cuban Mig force to at least 225 planes. Mr. McColm of Freedom House has reported that:

> Cuba now posseses the capacity to transport medium to heavy weaponry off the island and can rapidly deploy some 5,000 special forces within 24 hours anywhere in the Caribbean Basin.

McColm adds that in the spring of 1983:

> Cuba began practicing amphibious assaults around Mariel, deploying a contingent of 400 marines, four light tanks and eight armored personnel carriers. Using Soviet-made Polnocny-class ships capable of carrying six tanks, the Cuban demonstrated a capability of projecting force, particularly against vulnerable eastern Caribbean states.

The deployment of over 50,000 Cuban soldiers worldwide—including 35,000 to prop up the Marxist regime in Angola—indicates that Havana's military imperils Latin America as a whole.

INSURGENCY REMAINS PARAMOUNT

Notwithstanding the importance Castro attaches to active diplomacy and strong conventional forces, insurgency remains the cornerstone of his efforts to maintain the momentum of the 1959 revolution. According to R.A. Hudson of the Library of Congress, the General Department of Foreign Relations and the America Department, both divisions of the Cuban Communist Party's Central Committee, exert supreme influence over the conduct of foreign policy. The General Department is the counterpart of the International Department of the Soviet Communist Party, currently headed by Ambassador Anatoly Dobrynin. Mr. Hudson reports the chief of the General Department, Jesus Montane Opresa, "easily outranks" the foreign minister of Cuba. Montane meets with extremist groups like the Popular Front for the Liberation of Palestine and attends major guerilla and Communist conferences.

Manuel Pineiro Losada, the head of the America Department, also outranks the foreign minister. According to Mr. Hudson, Pineiro serves as Castro's primary counselor on policy toward the United States and Latin American revolutionary matters. Obviously, Pineiro also supervises the activities of the America Department, which include the planning of Cuban covert operations throughout Latin America. The America Department also manages guerrilla/terrorist centers in Cuba, coordinates the movements of men and armaments between Cuba and Latin America, and publishes propaganda.

The availability of other agencies as manpower resources for the America Department futher underscores its importance. The department employs elite special troops from the Interior Ministry and agents from the General Directorate of Intelligence. Based on State Department reports, Mr. Hudson reports that America Department personnel routinely serve in Cuban embassies. Sometimes Havana sends an official from the America Department to head an embassy—a strong signal that Cuba has targeted the host country for subversive action.

Mr. Hudson concludes in his article for the journal Terrorism:

> In effect the [General Directorate] and [the America Department] run Cuba's real foreign policy—the one that seeks to unify, coordinate, and support so-called anti-imperialist and anti-Zionist "national liberation movements" worldwide.

Castro has further demonstrated his attachment to this particular foreign policy by establishing a virtually omnipresent threat of subversion in Latin America. Beginning in the early 1970's, a 1981 State Department white paper reveals, Cuba provided urban terrorist units from South America with military training and instruction in intelligence methods. In 1974, Havana organized four of these groups—the Bolivian ELN, the Chilean MIR, the Uruguayan MLN and the Argentine ERP—into a coordinating committee.

In the wake of the Sandinista revolution, Cuban intelligence operatives dramatically expanded their activities in Central America. The America Department, the 1981 State Department report showed, established training camps and arms supply systems in Costa Rica for the Salvadoran rebels. Defectors from Nicaragua and the Salvadoran guerrilla forces have stated that Cuba provided the training, arms and munitions for several key rebel operations in El Salvador. As reported in the August 23, 1985, edition of the Washington Times, these actions included the bombing of the Golden Bridge in October 1981 and the extensive sabotage conducted at the Ilopango Air Base in January 1982. A former captain with the Salvadoran guerrillas has testified that Cuba prepared rebel forces for the December 1983 attack on the headquarters of the 4th Brigade—an attack in which 100 Salvadoran army troops lost their lives. The defector recalled:

> Besides the training they gave us all the material to use. The explosives, machine guns, and ammunition were totally sent from Cuba.

Cubans have provided similar services elsewhere in Central America. R.A. Hudson of the Library of Congress writes in his monograph on Cuban insurgency that in 1980, agents of the America Department successfully encouraged the four Guatemalan guerrilla units to join together and thereby obtain additional Cuban assistance. A 1985 State Department background paper disclosed that documents captured in a safehouse for the Honduran Front for Popular Liberation refer to training the extremists received in Nicaragua and Cuba. Mr. Hudson adds:

> According to the Costa Rican Ministry of Public Security by July 1985 at least 700 Costa Rican leftists had received military training in Cuba over the previous four

years, and most had already returned to their country through Nicaragua.

Obviously, President Arias of Costa Rica has good reason to feel nervous about the status quo in Central America.

The liberation of Grenada in 1983 and the election of Edward Seaga to the premiership in Jamaica dealt severe setbacks to the effectiveness and prestige of Cuban guerrilla activities in the Caribbean. Nevertheless, the America Department has urged that extremists in the Dominican Republic unite and has provided a number of activists with guerrilla training, according to Mr. Hudson.

In the case of Puerto Rico, Fidel Castro and the America Department have gone to great lengths to inject a climate of fear into the commonwealth. In interviews for the January 13, 1987 edition of the Washington Times, U.S. law enforcement and intelligence officials explained that Cuba has provided extensive assistance to the Macheteros, the primary Puerto Rican terrorist group, Members of the unit have reportedly visited special camps in Cuba and Nicaragua where they learn about weapons, explosives, psychological warfare, and infiltration techniques. The Macheteros have put this training to effective use in the past 8 years. Armed with U.S. M-16's and Soviet-made AK-47's, they attacked a U.S. Navy bus in San Juan in December 1979, killing two sailors. Three years later, the Macheteros struck again, ambushing four American sailors in San Juan and murdering one of them.

In September 1983, members of the Macheteros robbed a Wells Fargo armored truck in Hartford, CT, and absconded with $7.2 million. Federal officials cited in the Washington Times say that $4 million from that theft was sent to Cuba. Even worse, a report in the May 9, 1986, edition of the Wall Street Journal indicates that the America Department may have guided the planning of the robbery. The Western Hemisphere has become a dangerous place indeed when Cuban intelligence can organize major crimes in the continental United States.

As R.A. Hudson has illustrated in his monograph, Cuban intervention in Colombia shows that Castro readily affiliates himself with criminal enterprises. In 1980, Hudson notes, America Department agents staged a joint meeting between the various terrorist and guerrilla factions active in Colombia. The Cubans also trained members of the M-19 unit—one of the most savage terrorist groups in the world—in rural guerrilla combat. In early 1981, the Cubans helped the M-19 recruits reinfiltrate into Colombia from their training camps in Cuba.

On November 6, 1985, the M-19 raided and captured the Palace of Justice in Bogota. Mr. Hudson of the Library of Congress believes the group sought to affirm their vanguard status among Colombian radicals. Ominously, Mr. Hudson writes, M-19 also wished to destroy the extradition records of narcotics traffickers and to terrorize the judiciary. They may have succeeded in that objective. In the wake of the deaths of 50 hostages at the Palace of Justice, including several members of the Colombia Supreme Court, the Colombian judiciary has pronounced extradition accords with the United States unconstitutional. Both the M-19 and Fidel Castro must have obtained satisfaction from that development, for the leader of the raid, Andres Almarales, obtained military training in Cuba.

Mr. Speaker, I've discussed Cuban support for terror and guerrilla warfare not only to shed light on the geopolitical implications of such activities, but because the prevalence of Marxist-sponsored insurgency has profound meaning for the ongoing peace negotiations in Central America. I do not quarrel with the emphasis that Members of Congress and the Reagan administration have placed on Nicaragua's increasing strength in the area of conventional military force. The Sandinista armed forces have grown to include 75,000 men and have now become larger than the combined armies of the states adjoining Nicaragua. According to State Department data supplied to my office, the Sandinistas have received $600 million in Cuban and Soviet bloc military assistance over the past 8 years. Some 77,600 tons of equipment were delivered from the Soviet bloc over the past 6 years. Deliveries in 1986 alone totaled 23,000 tons.

The State Department has calculated that there are 2,500 to 3,000 Cuban military advisers in Nicaragua. Since 1980, Cuban construction crews have helped Nicaragua build some 40 new military bases at a value estimated at more than $300 million.

All of these statistics should frighten anyone worried about the prospects for peace and liberty in Central America. But Sandinista conventional capabilities do not constitute the essence of the strategic dilemma in Central America. Due to apprehensions about U.S. intervention, the Sandinistas seem unlikely to exploit their advantages in conventional military capabilities. Nicaraguan dictator Daniel Ortega will not send his tanks into San Salvador or San Jose because he fears that such an aggression would bring American tanks into the streets of Managua. Insurgency, on the other hand, remains a basic and powerful weapon of the Havana/Managua axis. The success that these regimes have experienced in keeping their role in such operations secret for years at a time means that a peace accord may probably prove ineffective in stopping guerrilla activities. Only a full democratization of Nicaragua will halt covert support for terror because only a full democratization will eliminate or at least restrain the sponsors of such support. And full democratization means the free and fair elections President Reagan called for last week.

THE SANDINISTAS AS ROBOTS

The Cubans provide us with other reasons for caution about the Arias initiative. Over a 40-year career in revolutionary politics, Fidel Castro has demonstrated his affinity to insurrection against so-called imperialists throughout Latin America. And solid evidence exists to show that, ultimately, Castro calls the shots in Managua. In 1984, Antonio Farach, formerly Minister Counselor at the Nicaraguan embassies in Venezuela and Honduras, testified before the Senate Subcommittee on Drug Abuse. When asked by Senator Paula Hawkins if Raul Castro had suggested that the Sandinistas become involved with narcotics trafficking, Mr. Farach replied:

> The precise terms used by Mr. Castro in his conversations with Mr. Ortega, I cannot say, but I can affirm that never in my experiences with Cuban officials during 4 years of service in the government, the relationship was never one of respect between Cubans and Nicaraguans. The Cubans always spoke as if they were the bosses. They were always very arrogant and demanding. They do not suggest in Nicaragua. They order in Nicaragua.

In testimony for the oral history project at the Fletcher School of Diplomacy, Miguel Bolanos Hunter, formerly a senior counterintelligence officer in Nicaragua, corroborated Farach's account. Bolanos revealed that a Cuban, Rehan Montero, operates Nicaraguan intelligence. Bolanos explained:

> He was the link between the [Sandinistas] and Cuba for many years. Now he is the intelligence link for Nicaragua from Fidel. That is why Fidel has him there. He is one of the main instruments for Cuban control of events in Nicaragua.

In his essay on Cuban insurgency, R.A. Hudson of the Library of Congress referred to Nicaragua as a "satrapy" of Cuba. Former Cuban Air Force General Rafael del Pino Diaz may have summarized the situation more accurately when he stated during a Radio Marti broadcast this July that Cuba seeks to create a Nicaraguan robot. General del Pino, who addressed the House Republican conference this morning, maintains that Cuba wishes to employ Nicaragua as a staging ground for covert operations. The August 1, 1987, edition of the Washington Times quoted the general as saying that this scenario will permit Cuba to direct "internationalist missions" while denying direct Cuban participation in them. Nicaraguan officials who refuse to accept Cuban ma-

nipulation of their country must leave the Government.

The Sandinistas have already mimicked the Cubans in significant matters of foreign policy. Bruce McColm has pointed out that camps for the training of Latin American and European terrorist groups, such as the Basque ETA, have been established in several Nicaraguan towns and on an island in Lake Nicaragua. In addition, Nicaraguan Government officials have intervened repeatedly in the civil war in El Salvador. One senior defector from the Salvadoran rebels, Napoleon Romero, stated in an April 1985 interview that Nicaragua had become the "directional center" of the Salvadoran guerrillas. And documents captured from the insurgents in 1985 show a flow of armaments to them from Nicaragua and Soviet bloc countries.

Like Cuba, Nicaragua has located targets for subversion in the United States. The Sandinistas have followed the Cubans into drug trafficking operations designed to disrupt American society. By way of background, I should refer to an article which appeared in the Journal of Defense and Diplomacy earlier this year entitled "International Narcotics Trafficking: the Soviet Connection." The article was written by Joseph Douglass and General Jan Sejna, formerly chief of cabinet at the Czech Ministry of Defense.

The authors reveal that in the early 1960's, the Soviet Union directed Cuban intelligence officials to infiltrate Latin American drug production and distribution networks and facilitate the movement of narcotics into the United States. General Sejna recalls that at a meeting of senior Warsaw Pact officials in the fall of 1962:

> [Soviet Premier] Khruschev carefully explained how the [narcotics] business would cripple the democratic societies while simultaneously generating much-needed foreign exchange for intelligence operations . . . Further, it would cripple the educational system. U.S. schools were high-priority targets because this is where the future leaders of the bourgeois were to be found.

General Sejna clearly remembers Khruschev's shocking conclusion:

> When we discuss this strategy, there were some who were concerned that this operation might be immoral. But we must state categorically that anything that speeds the destruction of capitalism is moral.

Khruschev's plan paid rich dividends. By 1967, the chief of Czech military intelligence could estimate that narcotics trafficking facilitated 20 to 25 percent of the technology thefts from the West to the Warsaw Pact. And in 1966, Soviet military intelligence calculated that Soviet and Cuban sponsorship of drug commerce would pay for all of that organization's foreign expenses.

Today, Cuba continues its involvement with this grisly business. According to the May 4, 1987, issue of U.S. News and World Report, Drug Enforcement Administration sources report over 50 recorded cases of Cuban participation in drug trafficking activities during the past 5 years. U.S. News also reports that the Cubans manage their own laboratory for the refining of cocaine outside Havana. They also provide fuel and protection for boats which transport narcotics to the United States.

The U.S. News article continues:

> Pressed for hard currency and eager for a share of profits from the dope trade, the Sandinistas—at Raul Castro's specific direction—eagerly established their own transshipment routes for Colombian cocaine.

In 1984, a U.S. Government informant photographed the arrival of a C-123 aircraft loaded with 1,500 kilos of cocaine at Los Brasiles airport north of Managua. The Sandinistas have reportedly set up their own cocaine refineries as well.

As we contemplate these events and the hundreds of drug overdoses that take place every year in America, I hope we can grasp that Castro and his Sandinista stooges have launched a very sinister and yet very personal war against our schools, our homes and our families. It is a threat from the East bloc which we cannot afford to underestimate. I was pleased when investigators for the Iran-Contra congressional committees announced in August that they could not substantiate charges that the so-called Contras had engaged in drug commerce. But congressional panels owe the American people a serious, detailed examination of Soviet, Cuban and Sandinista distribution of the substances that are poisoning our society.

The seeming conquest of Nicaragua by Fidel Castro bodes ill for Central America. Even if Daniel Ortega sincerely desired an end to the warfare which presently debilitates the region, his wishes might become moot when confronted with the revolutionary zeal and savagery of his masters in Havana. Would Castro readily relinquish a Leninist triumph that General del Pino says he had worked decades to achieve? Even worse, the Cuban role in Nicaragua, together with Cuba's international terror networks and its massive armed forces, demonstrate convincingly that Cuba has long ceased to be first among equals in Latin America. Only a regional superpower can deploy thousands of troops across the globe and manipulate criminal activity and political events thousands of miles away from its capital. Only a regional superpower can, as U.N. Ambassador Vernon Walters has reported, so intimidate other countries with threats of violence that they will refuse to merely condemn that state for the most grotesque human rights abuses.

In this context, it seems that Cuba could freely manipulate the destinies of the nations of Central America if the United States failed to oppose Havana's initiatives. Incredibly, some proponents of the Arias accord on Capitol Hill have all but ignored the Cuban factor in their longing for a treaty that will alleviate the United States of its responsibilities. They have also ignored two major aspects of the current turmoil in Central America that have a critical bearing on policy decisions.

First, they have ignored strong evidence that the people of Central America support Reagan Administration policies in the region. A January survey by the Costa Rican affiliate of Gallup International asked respondents in Costa Rica, Honduras, El Salvador, and Guatemala what sort of opinion they had about Nicaragua. Over 75 percent of the respondents indicated unfavorable opinions about Nicaragua. Over 70 percent labeled Nicaragua an instrument of Cuba and the Soviet Union. Majorities in all four countries maintain that Nicaragua and their own countries will be better off if the Nicaraguan democratic resistance, known as the Contras, win.

Second, some in the House and Senate continue to claim that the Contras are ineffective fighters. As Susan Kaufman Purcell, director of the Latin American Program at the Council of Foreign Relations, has stated in the fall issue of Foreign Affairs, the evidence does not support this conclusion.

She writes:

> Recent trends must be of some concern to the Sandinistas. Rebel forces are not only in Nicaragua; they are in most of the country. Sandinista efforts to disrupt their resupply network have provided ineffective; 98 percent of the resupply flights have reportedly reached their targets.

Ms. Purcell continues:

> The rebels have also begun to put the Sandinistas on the defensive by launching hundreds of attacks each month. In June 1987 alone, the Nicaraguan government admitted to approximately 372 rebel attacks and engagements. In the past few months, rebel activities have been reported in more than two-thirds of Nicaraguan territory * * *

These misconceptions must be corrected. The U.S. Government will never devise effective policies in Central America if such policies are based on flawed assessments of our strengths and weaknesses. We can be sure that Fidel Castro insists on accurate information before he makes his decisions.

The congressional leadership should recognize that America must become as resolute in the advancement of democracy as Castro has long been in the advocacy of Leninist tyranny. The leaders of the House and Senate should not settle for a half loaf of

freedom in Nicaragua, but instead, should insist on free elections, as President Reagan has done. The ballot box is not only Nicaragua's best hope for real democracy, but its only pathway to self-determination. Members of the House majority will recall that it was President Woodrow Wilson who first championed that cause.

□ 1915

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BARTLETT) to revise and extend their remarks and include extraneous material:)

Mr. BALLENGER, for 60 minutes, October 15 and 19.

Mr. BURTON of Indiana, for 60 minutes, October 15.

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. COUGHLIN, for 5 minutes, today.

Mr. WALKER, for 5 minutes, today.

(The following Members (at the request of Mr. DONNELLY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. CROCKETT, for 5 minutes, today.

Mr. OWENS of New York, for 5 minutes, on October 14, 15, and 16.

Mr. GONZALEZ, for 60 minutes, on October 15.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DAUB, following the Jeffords amendment in the nature of a substitute to H.R. 162 in the Committee of the Whole, today.

Mr. BURTON of Indiana, following the Jeffords amendment in the nature of a substitute to H.R. 162 in the Committee of the Whole, today.

Mr. BUNNING, following the Jeffords amendment in the nature of a substitute to H.R. 162 in the Committee of the Whole, today.

(The following Members (at the request of Mr. BARTLETT) and to include extraneous matter:)

Mr. PURSELL.

Mr. BEREUTER.

Mr. HEFLEY.

Mrs. ROUKEMA.

Mr. GALLO in two instances.

Mr. SHUMWAY.

Mr. DORNAN of California in three instances.

Mr. BUNNING in two instances.

Mr. FIELDS in two instances.

Ms. SNOWE.

Mr. VANDER JAGT.

Mr. CONTE.

Mr. COMBEST.

Mr. MACK.

Mr. HORTON.

Mr. GEKAS in two instances.

Mr. HOUGHTON.

(The following Members (at the request of Mr. DONNELLY) and to include extraneous matter:)

Mr. KILDEE in two instances.

Mr. DOWNEY of New York.

Mr. YATRON.

Mr. LIPINSKI.

Mr. ATKINS in two instances.

Mr. COLEMAN of Texas.

Mr. FAZIO.

Mr. SAWYER.

Mrs. BOXER.

Mr. HAMILTON in two instances.

Mr. RICHARDSON.

Mr. LEVIN of Michigan.

Mr. MAVROULES.

Mr. SOLARZ.

Mr. MFUME.

Mr. BORSKI.

Mr. TALLON.

Mr. LANTOS.

Mr. MILLER of California.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 328. An act to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes; to the Committee on Government Operations.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following title:

H.R. 1567. An act to provide for the use and distribution of funds awarded to the Cow Creek Band of Umpqua Tribe of Indians in U.S. Claims Court docket numbered 53-81L, and for other purposes;

H.R. 3226. An act to amend the Anti-Drug Abuse Act of 1986 to permit certain participants in the White House Conference for a Drug Free America to be allowed travel expenses, and for other purposes; and

H.J. Res 338. Joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

ADJOURNMENT

Mr. LUNGREN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 25 minutes p.m.) under its previous order, the House adjourned until tomorrow, Thursday, October 15, 1987, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2241. A communication from the President of the United States, transmitting an amendment to the request for appropriations for fiscal year 1988 for the Department of the Treasury, pursuant to 31 U.S.C. 1107 (H. Doc. No. 100-115); to the Committee on Appropriations and ordered to be printed.

2242. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of October 1, 1979, pursuant to 2 U.S.C. 685(e) (H. Doc. N0. 100-114); to the Committee on Appropriations and ordered to be printed.

2243. A letter from the Secretary of Education, transmitting a copy of final regulations—Drug Abuse Education and Prevention Audiovisual Materials Program, pursuant to 29 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2244. A letter from the Secretary of Education, transmitting a copy of final regulations for the Pell Grant Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2245. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $14,000,000 or more to the Government of Singapore (Transmittal No. MC-41-87), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2246. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting copies of the report of political contributions by John R. Davis, Jr., of California, Ambassador Extraordinary and Plenipotentiary-designate to Poland, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2247. A communication from the President of the United States, transmitting a report on the September 21, 1987 engagement of U.S. Armed Forces and Iranian minelaying landing craft in the Persian Gulf (H. Doc. No. 100-112); to the Committee on Foreign Affairs and ordered to be printed.

2248. A communication from the President of the United States, transmitting a report on the October 8, 1987 engagement between U.S. Armed Forces and Iranian naval vessels in the Persian Gulf (H. Doc. No. 100-113); to the Committee on Foreign Affairs and ordered to be printed.

2249. A letter from the Assistant Attorney General for Legislative Affairs, transmitting a draft of proposed legislation to amend the Immigration and Nationality Act to provide general arrest authority for officers of the Immigration and Naturalization Service; to the Committee on the Judiciary.

2250. A letter from the Secretary of Health and Human Services, transmitting a report entitled, "Developing a Prospective Payment System for Excluded Hospitals", a review of research studies for each hospital class—children's, psychiatric, rehabilitation, and long-term, pursuant to Public Law 98-21, section 603(a)(2)(c)(ii); to the Committee on Ways and Means.

REPORTS OF COMMITTEE ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASPIN: Committee on Armed Services. Report on allocation of budget authority and outlays by program (Rept. 100-370). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS:

H.R. 3483. A bill to amend title 18, United States Code, to improve certain provisions relating to imposition and collection of criminal fines, and for other purposes; to the Committee on the Judiciary.

By Mr. BROOKS (for himself (by request), Mrs. COLLINS, Mr. HORTON, and Mr. NIELSON of Utah):

H.R. 3484. A bill to amend the Federal Property and Administrative Services Act of 1949 and section 3726 of title 31, United States Code, to improve and extend the operations of the General Supply Fund, and for other purposes; to the Committee on Government Operations.

By Mr. DORNAN of California (for himself, Mr. HUNTER, Ms. KAPTUR, Mr. MURTHA, Mr. BUNNING, Mr. BURTON of Indiana, Mr. SWEENEY, Mr. SMITH of New Jersey, and Mr. SOLOMON):

H.R. 3485. A bill to amend title 38, United States Code, to treat individuals who had commenced the third academic year as a cadet or midshipman at one of the service academies before January 1, 1977, as veterans of the Vietnam era for purposes of eligibility for educational assistance under chapter 34 of such title; to the Committee on Veterans' Affairs.

By Mr. EVANS (for himself, Mr. BRYANT, Mr. JEFFORDS, Mr. FLORIO, Mr. LANCASTER, Mr. BONIOR of Michigan, Mr. PANETTA, Mr. STAGGERS, Mr. JOHNSON of South Dakota, Mr. JONTZ, Mr. LAFALCE, Mr. LIPINSKI, Mr. DEFAZIO, and Mr. COLEMAN of Texas):

H.R. 3486. A bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service in Vietnam during the Vietnam era; to the Committee on Veterans' Affairs.

By Mr. HUCKABY (for himself, Mr. SCHUMER, Mr. PANETTA, Mr. GLICKMAN, Mr. STENHOLM, Mr. TALLON, Mr. STAGGERS, Mr. PENNY, Mr. OLIN, Mr. THOMAS of Georgia, Mr. EMERSON, Mr. STALLINGS, and Mr. JONES of Tennessee):

H.R. 3487. A bill to revise the limitations on farm program benefits so as to prevent excessive payments and to ensure the fair and equitable distribution of such benefits, and for other purposes; to the Committee on Agriculture.

By Mr. MONTGOMERY (for himself and Mr. SOLOMON):

H.R. 3488. A bill to prohibit for 12 months the closure or relocation of any Veterans' Administration readjustment counseling center or any other change in the mission or organization of Veterans' Administration medical facilities; to the Committee on Veterans' Affairs.

By Mr. ROBERTS (for himself, Mr. MADIGAN, Mr. MARLENEE, Mr. CRAIG, Mrs. SMITH of Nebraska, Mr. EMERSON, Mr. SHUMWAY and Mr. SCHUETTE):

H.R. 3489. A bill to provide for the orderly implementation of Environmental Protection Agency programs established to comply with the Endangered Species Act of 1973; jointly, to the Committees on Agriculture and Merchant Marine and Fisheries.

By Mr. SLAUGHTER of Virginia (for himself and Mr. LUNGREN):

H.R. 3490. A bill to amend title XVIII of the Social Security Act to revise the standards applying to medigap insurance policies in order to provide protection against the costs of catastrophic illness; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SUNDQUIST:

H.R. 3491. A bill to amend the Internal Revenue Code of 1954 to provide a refundable income tax credit for the recycling of hazardous wastes; to the Committee on Ways and Means.

By Mr. FOLEY:

H.J. Res. 374. Joint resolution to designate April 1988 as "National Prevent-A-Litter Month"; to the Committee on Post Office and Civil Service.

By Mr. HORTON (for himself, Mr. ANDERSON, Mrs. BENTLEY, Mr. BEVILL, Mr. BIAGGI, Mrs. BOXER, Mr. BUECHNER, Mr. CARDIN, Mr. CHAPMAN, Mr. CLAY, Mrs. COLLINS, Mr. CONTE, Mr. CONYERS, Mr. CROCKETT, Mr. DAUB, Mr. DEFAZIO, Mr. DE LA GARZA, Mr. DIXON, Mr. DORNAN of California, Mr. DYMALLY, Mr. DYSON, Mr. ESPY, Mr. EVANS, Mr. FAUNTROY, Mr. FAZIO, Mr. FOGLIETTA, Mr. FROST, Mr. FUSTER, Mr. GOODLING, Mr. HUGHES, Ms. KAPTUR, Mr. KASICH, Mr. LAGOMARSINO, Mr. LEVIN of Michigan, Mr. LUNGREN, Mrs. MARTIN of Illinois, Mr. MARTINEZ, Mr. MATSUI, Mr. MCDADE, Mrs. MEYERS of Kansas, Mr. MRAZEK, Mr. NIELSON of Utah, Mr. OWENS of New York, Mr. OWENS of Utah, Mrs. PATTERSON, Mr. RAVENEL, Mr. ROE, Mr. FEIGHAN, Mr. SHUMWAY, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. TOWNS, Mr. WEISS, Mr. WELDON, Mr. WOLF, Mr. WORTLEY, and Mr. WYLIE):

H.J. Res. 375. Joint resolution designating November 1, 1987, as "National Volunteer Appreciation Day"; to the Committee on Post Office and Civil Service.

By Mr. MACK (for himself, Mr. FASCELL, Mr. YATRON, Mr. SOLOMON, Mr. PORTER, Mr. LANTOS, Mr. HOYER, Mrs. BOXER, Mr. LIPINSKI, Mr. AUCOIN, Mr. GREEN, Mr. MCGRATH, Mr. SKAGGS, Mr. OWENS of New York, Mr. HORTON, Mr. MOORHEAD, Mr. FROST, Mr. WORTLEY, Mr. MAVROULES, Ms. SLAUGHTER of New York, Mr. ERDREICH, Mr. LAGOMARSINO, Mr. SMITH of New Jersey, Mr. FRANK, Mr. MCCURDY, Mr. DE LUGO, Mr. WEBER, Miss SCHNEIDER, Mr. SWINDALL, Mr. SCHUMER, Mr. BOLAND, Mr. BATEMAN, Mr. INHOFE, Mr. COUGHLIN, Mr. HUNTER, Mr. MANTON, Mr. ANNUNZIO, Mr. WOLF, Mr. ACKERMAN, Mr. SHUMWAY, Mr. WELDON, Mr. TORRICELLI, Mr. MOODY, Mr. CARDIN, Mr. FAUNTROY, Mr. DIOGUARDI, Mr. BILBRAY, Mr. ROE, and Mr. EDWARDS of California):

H.J. Res. 376. Joint resolution calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses in the United States; to the Committee on Foreign Affairs.

By Mr. FASCELL (for himself, Mr. BROOMFIELD, Mrs. SAIKI, and Mr. AKAKA):

H. Con. Res. 199. Concurrent resolution with regard to Soviet missile firings near Hawaii, to the Committee on Foreign Affairs.

By Mr. LEVINE of California (for himself, Mr. FASCELL, Mr. YATRON, Mr. SOLARZ, Mr. STUDDS, Mr. WOLPE, Mr. CROCKETT, Mr. DYMALLY, Mr. BERMAN, Mr. WEISS, Mr. BILBRAY, Mr. OWENS of Utah, Mr. BROOMFIELD, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. SMITH of New Jersey, Mrs. MEYERS of Kansas, and Mr. MILLER of California):

H. Con. Res. 200. Concurrent resolution to congratulate and commend President Arias of Costa Rica for receiving the 1987 Nobel Peace Prize; to the Committee on Foreign Affairs.

By Mr. MCEWEN:

H. Con. Res. 201. Concurrent resolution to require periodic reports on the aggregate cost incurred by the Congress as a result of the investigation being conducted by the House Select Committee to Investigate Covert Arms Transactions with Iran and the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition; to the Committee on House Administration.

By Mr. RAHALL (for himself, Mr. MOLLOHAN, Mr. STAGGERS, and Mr. WISE):

H. Con. Res. 202. Concurrent resolution honoring the distinguished service of the pioneers of supersonic aerial flight, as exemplified by Air Force Brig. Gen. Charles E. "Chuck" Yeager's many years of distinguished U.S. service, on the 40th anniversary of his becoming the first man to fly an airplane faster than the speed of sound; to the Committee on Post Office and Civil Service.

By Mr. SUNDQUIST:

H. Con. Res. 203. Concurrent resolution expressing the sense of Congress with respect to fishing licenses for senior citizens; to the Committee on Merchant Marine and Fisheries.

By Mr. MOAKLEY:

H. Res. 285. Resolution expressing the sense of the House of Representatives that the United States should encourage and support the Republic of Ireland in its development of an international world trade and financial center in Dublin, Ireland; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 341: Mr. BENNETT, Mr. GINGRICH, Mr. MARLENEE, Mr. STUMP, Mr. WELDON, Mr. WOLF, and Mr. WORTLEY.

H.R. 541: Mr. FEIGHAN.

H.R. 639: Mr. FUSTER, Mr. GUNDERSON, Mr. MILLER of California, Mr. MRAZEK, Mr. MICA, Mr. FAUNTROY, and Mr. CHAPMAN.

H.R. 655: Mrs. SAIKI and Mr. BATES.
H.R. 1016: Mr. BRYANT.
H.R. 1145: Mr. LEATH of Texas.
H.R. 1213: Mr. SPRATT.
H.R. 1235: Mr. BARNARD, Mr. DORNAN of California, and Mr. FORD of Tennessee.
H.R. 1259: Mr. ROBINSON and Mr. YOUNG of Alaska.
H.R. 1430: Mr. DORNAN of California.
H.R. 1481: Mr. MRAZEK, Mr. WELDON, and Mr. REGULA.
H.R. 1546: Mr. DYMALLY and Mr. BROWN of California.
H.R. 1717: Mr. MCEWEN.
H.R. 1794: Mr. CARPER and Mr. DYMALLY.
H.R. 1885: Mr. DICKINSON, Mr. DARDEN, Mr. ENGLISH, Mrs. LLOYD, and Mr. SUNDQUIST.
H.R. 2091: Mr. HANSEN.
H.R. 2116: Mr. ARCHER, Mr. HANSEN, Mr. HERGER, Mrs. MARTIN of Illinois, and Mr. MONTGOMERY.
H.R. 2125: Mr. COUGHLIN.
H.R. 2248: Mr. GRAY of Pennsylvania, Mr. SCHUETTE, and Mr. PICKETT.
H.R. 2272: Mr. SCHULZE.
H.R. 2273: Mr. SCHULZE.
H.R. 2312: Mr. SCHUETTE.
H.R. 2611: Mr. TORRICELLI, Mr. FORD of Michigan, Mr. BEREUTER, Mr. SMITH of Florida, Mr. FOGLIETTA, Mr. SHAW, Mr. CARDIN, and Mr. ALEXANDER.
H.R. 2670: Mr. FISH, Mr. RINALDO, and Mr. ESPY.
H.R. 2673: Mr. FISH, Mr. BILIRAKIS, and Mrs. MORELLA.
H.R. 2688: Mr. FORD of Tennessee and Mrs. LLOYD.
H.R. 2692: Mr. BADHAM, Mr. HORTON, Mr. BUNNING, and Mr. BILIRAKIS.
H.R. 2724: Mr. ATKINS.
H.R. 2785: Mr. JOHNSON of South Dakota.
H.R. 2856: Mr. MANTON.
H.R. 2870: Mr. KOLTER, Mrs. COLLINS, and Mr. KILDEE.
H.R. 2952: Ms. SLAUGHTER of New York.
H.R. 2963: Mr. WYDEN and Mr. DEFAZIO.
H.R. 3003: Mr. HOCHBRUECKNER.
H.R. 3004: Mr. HOCHBRUECKNER.
H.R. 3049: Mr. HOCHBRUECKNER.
H.R. 3064: Mr. KOLBE and Mr. EDWARDS of Oklahoma.
H.R. 3070: Mr. SMITH of Florida, Mr. MCCLOSKEY, Mr. CONYERS, Ms. PELOSI, and Mr. DWYER of New Jersey.
H.R. 3071: Mr. SHAYS, Mr. DELLUMS, and Mr. MRAZEK.
H.R. 3205: Mr. SHUMWAY, Mr. PURSELL, Mr. GALLEGLY, Mrs. JOHNSON of Connecticut, Mr. LIGHTFOOT, and Mr. YOUNG of Alaska.
H.R. 3214: Mrs. MEYERS of Kansas, Mr. MCEWEN, and Mrs. MORELLA.
H.R. 3225: Mr. ESPY, Mr. BORSKI, Mr. KILDEE, and Mr. SCHUETTE.
H.R. 3228: Mr. BONIOR of Michigan, Mr. ASPIN, Mr. AUCOIN, Mr. LATTA, Mr. FLIPPO, Mr. HAYES of Louisiana, and Mr. DAUB.
H.R. 3250: Mr. SHAW and Mr. HAMILTON.
H.R. 3265: Mr. TORRES, Mr. LAFALCE, Mr. DE LUGO, Mr. FRANK, Mr. PEPPER, and Mr. MARTINEZ.
H.R. 3290: Mr. PEPPER.
H.R. 3304: Mr. ECKART, Mr. FEIGHAN, Mrs. BENTLEY, Mr. FOGLIETTA, and Mr. MYERS of Indiana.
H.R. 3344: Mr. JONTZ.
H.R. 3345: Mr. HORTON, Mr. WEISS, and Mr. BUSTAMANTE.
H.R. 3346: Mr. PEASE.
H.R. 3400: Mr. ROYBAL, Mr. OBEY, Mr. HUGHES, Mr. ECKART, Mr. THOMAS A. LUKEN, Mr. DARDEN, Mr. HARRIS, Mr. ANNUNZIO, Mr. MILLER of California, Mr. ANTHONY, Mr. SHAYS, Mr. BOEHLERT, Mr. QUILLEN, Mrs. BENTLEY, Mr. RUSSO, Mr. VANDER JAGT, Mr. WEISS, Mrs. KENNELLY, Mr. FOLEY, Mr. MINETA, Mr. BROOKS, Mr. SUNDQUIST, Mr. ATKINS, Mr. VISCLOSKY, Mr. DONNELLY, Mr. ANDREWS, Mr. BOSCO, Mr. INHOFE, Mr. TALLON, Mr. LEHMAN of Florida, Mr. GUARINI, Mr. GRAY of Illinois, Mr. LANTOS, Mr. GOODLING, Mr. STALLINGS, Mr. EMERSON, Mr. HERTEL, Mr. JONES of Tennessee, Mr. HUBBARD, Mr. LAFALCE, Mrs. BOGGS, Mr. LEVIN of Michigan, Mr. FEIGHAN, Mrs. LLOYD, Mr. WISE, Mr. COELHO, Mr. ST GERMAIN, Mr. MOLLOHAN, Mr. MICA, Mr. MADIGAN, Mr. DIOGUARDI, Mr. LENT, Mr. GEKAS, Mr. HAMMERSCHMIDT, Mr. HAYES of Louisiana, Mr. SHARP, Mr. SCHEUER, Mrs. ROUKEMA, Mr. KOLBE, Mr. SCHUMER, Mr. SKELTON, Mr. HUCKABY, Mr. DOWDY of Mississippi, Mr. TRAFICANT, Mr. ORTIZ, Mr. THOMAS of Georgia, Mr. LEVINE of California, Mr. SUNIA, Mr. ANDERSON, Mr. ROWLAND of Georgia, Mr. WAXMAN, Mr. GRANDY, Mr. CHAPMAN, Mr. BLAZ, Mr. DE LA GARZA, Mr. HALL of Ohio, Mr. TAUKE, Mr. UPTON, Mr. GIBBONS, Mr. GLICKMAN, and Mrs. SAIKI.
H.J. Res. 112: Mr. ATKINS.
H.J. Res. 169: Mrs. BENTLEY, Mr. WYDEN, Mr. HATCHER, Mr. GONZALEZ, Mr. ANNUNZIO, Mr. COUGHLIN, Mr. GRAY of Pennsylvania, Mr. GORDON, Mr. WOLF, Mr. RIDGE, Mr. WEISS, Mr. QUILLEN, Mr. GEKAS, Mr. FAUNTROY, Mr. SUNIA, Mr. FAZIO, Mr. CONYERS, and Mr. BEVILL.
H.J. Res. 250: Mr. RINALDO, Mr. PEPPER, Mr. REGULA, Mr. WAXMAN, Mr. MADIGAN, Mr. BEVILL, Mr. BIAGGI, Mrs. BOXER, Mr. BRENNAN, Mr. BROWN of California, Mr. COBLE, Mr. CARDIN, Mr. COELHO, Mrs. COLLINS, Mr. CROCKETT, Mr. DAUB, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DIXON, Mr. DORNAN of California, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. DYSON, Mr. EVANS, Mr. FAUNTROY, Mr. FAZIO, Mr. FEIGHAN, Mr. FIELDS, Mr. FISH, Mr. FLORIO, Mr. FOGLIETTA, Mr. FRENZEL, Mr. FROST, Mr. GREEN, Mr. HALL of Texas, Mr. HEFNER, Mr. HORTON, Mr. HOWARD, Mr. HUGHES, Mr. KASICH, Mr. KOLTER, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEHMAN of California, Mr. LEHMAN of Florida, Mr. LELAND, Mr. LEVIN of Michigan, Mr. LEWIS of California, Mr. MACK, Mr. MARTINEZ, Mr. MATSUI, Mr. MOAKLEY, Mr. NIELSON of Utah, Ms. OAKAR, Mr. OWENS of New York, Mr. PANETTA, Mr. PASHAYAN, Mr. RAHALL, Mr. RODINO, Mr. ROE, Mr. ROEMER, Mr. SABO, Mr. SCHUETTE, Mr. SHUMWAY, Mr. SKELTON, Mr. SMITH of Florida, Mr. SUNIA, Mr. TALLON, Mr. TAUKE, Mr. TOWNS, Mr. TRAXLER, Mr. VALENTINE, Mr. VOLKMER, Mr. WEISS, Mr. WHITTEN, Mr. WOLF, and Mr. WORTLEY.
H.J. Res. 292: Mr. ATKINS, Mr. BEVILL, Mr. BIAGGI, Mr. BLILEY, Mr. BOSCO, Mr. BRENNAN, Mr. BRUCE, Mr. CLAY, Mr. CROCKETT, Mr. DERRICK, Mr. DORGAN of North Dakota, Mr. DYMALLY, Mr. FAUNTROY, Mr. FISH, Mr. GRAY of Illinois, Mr. GRAY of Pennsylvania, Mr. HOLLOWAY, Mr. HUGHES, Mr. HYDE, Mr. KILDEE, Mr. KOLTER, Mr. LEACH of Iowa, Mr. LEHMAN of California, Mr. LELAND, Mr. LEVINE of California, Mr. LEWIS of Georgia, Mr. LUNGREN, Mr. MCMILLEN of Maryland, Mr. MATSUI, Mr. MFUME, Mrs. MORELLA, Mr. MRAZEK, Ms. OAKAR, Ms. PELOSI, Mr. SAVAGE, Mr. STARK, Mrs. VUCANOVICH, Mr. WOLPE, and Mr. YATRON.
H.J. Res. 308: Mr. LAGOMARSINO, Mr. WHITTAKER, Mr. DELLUMS, Mr. MOORHEAD, Ms. KAPTUR, Mr. SMITH of Florida, Mr. BEVILL, Mr. SCHUETTE, Mr. HAYES of Louisiana, Mr. MCCLOSKEY, Mr. STOKES, Mr. LEVIN of Michigan, Mr. RAVENEL, Mr. COELHO, Mr. VENTO, Mr. SCHEUER, Mr. BILIRAKIS, Mr. YATRON, Mr. TAUZIN, Mr. NELSON of Florida, Mr. WOLPE, Mr. BLILEY, Mr. CARPER, Mrs. MORELLA, Mr. ROBINSON, Mrs. PATTERSON, and Mr. DE LUGO.
H.J. Res. 349: Mr. OWENS of Utah, Mr. LEWIS of Georgia, Mr. CLARKE, Mr. HAMILTON, Mr. SUNIA, Mr. SCHEUER, Mrs. MORELLA, Mr. HAYES of Illinois, Mr. MAVROULES, and Mr. SIKORSKI.
H.J. Res. 360: Mr. SUNIA, Mr. FAZIO, Mr. FASCELL, Mr. HOWARD, Mr. HILER, Mr. BLAZ, Mr. CRANE, Mr. HANSEN, Mr. BARTON of Texas, Mr. SMITH of New Jersey, Mr. DAUB, and Mr. SCHUETTE.
H.J. Res. 365: Mr. CAMPBELL, Mr. DAUB, Mr. GARCIA, Mr. HARRIS, Mr. HAYES of Louisiana, Mr. HEFNER, Mr. HOWARD, Mr. HYDE, Mr. KASICH, Mr. MCDADE, Mr. MILLER of Ohio, Mr. MOODY, Mr. NICHOLS, Mr. SMITH of Florida, Mr. STRATTON, and Mr. YOUNG of Florida.
H. Con. Res. 68: Mr. HOUGHTON.
H. Con. Res. 83: Mr. LEACH of Iowa, Mrs. COLLINS, Mr. BURTON of Indiana, Mr. MADIGAN, and Mr. HARRIS.
H. Con. Res. 133: Mr. BUSTAMANTE, Mr. TOWNS, Mr. RAHALL, and Mrs. SMITH of Nebraska.
H. Con. Res. 153: Mr. SWEENEY, Mr. HOLLOWAY, and Mr. CAMPBELL.
H. Con. Res. 168: Mr. WEISS, Mr. ESPY, Mrs. COLLINS, Ms. PELOSI, Mr. PENNY, Mr. VENTO, Mr. CONYERS, and Mr. SIKORSKI.
H. Con. Res. 193: Mr. CONYERS, Mr. HORTON, Mr. MILLER of Ohio, and Mr. SHUMWAY.
H. Con. Res. 194: Mr. RUSSO.
H. Con. Res. 196: Mr. LEVINE of California.
H. Res. 114: Mr. SMITH of New Hampshire.
H. Res. 229: Mr. NIELSON of Utah.
H. Res. 269: Mr. CONYERS, Mr. WOLF, Mr. HERGER, Mr. DEWINE, Mr. CRANE, and Mr. BILIRAKIS.

PETITIONS, ETC.

Under clause 1 of rule XXII:

84. The SPEAKER presented a petition of Reinhard Kamke Hannover, Federal Republic of Germany, relative to his application for immigration; which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

UNITED STATES-JAPAN RELATIONS FROM THE VIEWPOINT OF JAPANESE MULTINATIONAL CORPORATIONS DOING BUSINESS IN THE UNITED STATES

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. SHUMWAY. Mr. Speaker, I recently had the opportunity to participate in a seminar sponsored by Johns Hopkins University on the issue of United States-Japan relations. The keynote speaker was Kazuo Inamori, chairman of the now-international Kyocera Corp. His statement on the relations between our two nations from the viewpoint of Japanese multinational corporations doing business in the United States is both refreshing and challenging. I believe that Mr. Inamori's remarks are worthy of careful review by my colleagues, and thus I am sharing them with the House membership herein:

UNITED STATES-JAPAN RELATIONS FROM THE VIEWPOINT OF JAPANESE MULTINATIONAL CORPORATIONS DOING BUSINESS IN THE UNITED STATES

(By Kazuo Inamori)

It is a great honor and pleasure to be invited to address your monthly forum of the School for Advanced International Studies of the Johns Hopkins University, the oldest research university in the United States.

The topic I have been asked to address concerns U.S.-Japan relations from the viewpoint of Japanese multinational corporations operating in the United States. I would like to start with a general overview of U.S.-Japan relations.

THE AMERICAN CHALLENGES

In order to improve the trade relationships between the United States and Japan, the United States has been urging Japan to formulate and execute a new economic policy as quickly as possible.

Twice in our history, Japan had to carry out changes in our major policy with respect to foreign affairs.

The first of these was 120 (one hundred and twenty) years ago at the time of our Meiji Reformation. The second was at the conclusion of the World War Two. Both occasions called for drastic changes in our government policy. If Japan is to carry out a major policy change now, it will be the third such historical event.

THE MYTH OF JAPAN, INC.

There are various reasons why Japan is, at this time, reluctant to adopt a completely open economic policy. In my opinion, the major problem lies in the administrative structure of the Japanese government.

In trying to formulate a policy to ease the trade friction between the United States and Japan, the situation often arises that, despite consensus on a national level, each ministry gives priority to its own interest and may refuse to grant approval.

This happens, because each ministry is closely tied to its own industrial sector. In addition, every ministry has Diet members who, visibly or invisibly, wield great power. These are called "Zokugiin" or Diet Interest Group. They are vocal in their own special area, and their interest intertwines with that of the ministry.

Since each ministry is independent, its primary concern is to protect its own vested rights and interests. This also means that private corporations and Diet Interest Groups have much control over the ministries.

This explains why an agreement at the national level may still face much opposition at the ministry level. There, the discussions tend to degenerate to arguing over the interests of the ministry, its group of industries, and of the Diet Interest Groups that control it. This also explains why our open economic policy lacks in consistency and why its progress is so sluggish.

OVERHAULING JAPAN, INC.

The historical roots of this administrative structure date back to the Meiji Reformation when Japan's present government structure was formed. Its long history makes it difficult to changing it overnight. Nonetheless, I firmly believe that there is a definite need for a radical, fundamental reform of this administrative structure.

Another consideration is that Japan has no policy-making organization that cuts across all ministries to set general and strategic policies. Rather, policies devised by individual ministries become Japan's national policies. How can we possibly have a uniform consistent economic policy when each ministry decides its own policy and acts accordingly!

What Japan needs is an exclusive controlling body to deal with all ministries on a horizontal level, and one whose policies and interests are adhered to by all ministries. I think that an administrative reform to create such a structure is necessary.

It is certainly debatable whether this kind of reform is indeed possible in Japan or not. I am of the opinion that this is a problem that has to be solved.

SING A SONG OF FREE TRADE

At the same time, the traditional management thinking in industry must be changed. Traditionally, the majority of Japanese corporate managers have been firmly convinced that the best course of action is to manufacture quality products at low cost and export them. They, therefore, deeply believe that "free trade" must be advocated.

However, just ten years ago, Japanese government was still laying down various regulations restricting the activities of foreign corporations within Japan. These restrictions on "free trade" helped the growth of domestic industries. Japanese industries grew very strong thanks to these protective regulations.

Now that Japanese industries have grown to be globally competitive, we are removing our protective regulations, and demanding that other countries do the same. Isn't it strange how we have suddenly become an avid advocate of "free trade"—with no regards for the situation of our trading partners?

LIVE AND LET LIVE

In fact, once, it might have been a good thing to make quality goods inexpensively and sell them overseas. But "no man is an island." The human race is such that we do not live freely by ourselves, but only through our mutual relationship with others. We must be more aware of the fact that we live by virtue of being "let live."

Consequently, we should not do anything that would jeopardize others. This new concept that the world must join hands to help each other and coexist, is, in fact, an age-old philosophy. It's time for our corporate managers to wake up to this philosophy and start changing their ideas.

THE UGLY JAPANESE

The present problem of trade imbalance should be viewed in the same light. This situation is becoming even more severe because of the vicious fight for market share among Japanese corporations. Enlightened business leaders must surely see that this is causing problems in our host countries. Shouldn't we then adopt a more orderly, disciplined, and better-managed way to trade? "Free Trade" should not imply a "Free for all." Behaving in a self-willed, self-profiting manner has nothing to do with the real meaning of freedom.

UNITED STATES-JAPAN TRADE ISSUES

Concerning Japanese exports to the United States, America tells Japan that its non-tariff barriers, complex distribution system and bizarre trading customs prevent American imports from increasing in Japan.

Japan, on the other hand, tells the United States that their import duties are lower than any other country, that non-tariff barriers do not exist, and that the reason why America's imports into Japan fail to increase is because America does not try hard enough. Japan also stresses that American studies in the Japanese language and in Japan's trading customs have not been sufficient.

It is clear that the two countries are following two completely different tracks.

LEARNING CURVE THEORY

I am inclined to think, however, that this problem has arisen due to differences in experience and in the duration of effort spent by the two countries.

The U.S. market opened up after the war and has remained open for 40 years. Japanese companies have been able to study ways to enter the market and accumulate know-how through this experience.

But Japan's market did not open until about 10 years ago. The U.S. simply has not had enough time to study the Japanese language and Japanese trade customs, or to research our complicated distribution system.

As we can see from this history, American companies are handicapped by their limited period of preparation. In order to redress the trade imbalance, Japan must do more than simply open its markets. There will be no equity reached on this score soon unless Japan takes measures to provide American companies with access to Japanese markets

by reaching out and literally handing the market over to them.

FREE TRADE THEORY

Of course, there is nothing unfair about letting America's exports to Japan increase by relying on the mechanism of free trade alone. However, my thought is that, in the light of past difficulties and the overall emergency of the situation, Japan should do more to resolve the problem.

From this point of view, I cannot yet say that the mentality of Japanese managers has really changed. But there are signs that this will change in the future. A while ago, a report issued by an advisory body to the Ministry of International Trade and Industry expressed much of the same idea. Furthermore, two or three members of the Japanese Committee for Economic Development have begun to profess a similar opinion. This is indicative of a gradual change that is starting to take place among Japanese managers.

COURTING JAPANESE INDUSTRIES

Thus, it is unlikely that the trade imbalance can be solved easily. Then, meanwhile, it seems that the Japanese industries will have to continue shifting their production base to our trade partners' home turf.

These days, every state in the United States, with its Governor at the head, seems to be engaged in a zealous movement to attract new industries. Every year, we see many states send out a large number of delegations to Japan, to entice Japanese companies to set up their production facilities in their states.

I think that Japan should seriously consider such offers and encourage as many industries to locate in the United States as possible.

HOLLOWING OF U.S. INDUSTRIES

Paralleling this, another phenomenon has been taking place in the United States during the past 20 to 30 years. A large number of American industries has been moving their domestic production bases offshore. In other words, products that used to be manufactured domestically are now being produced in countries whose people work hard for low wages. These products are then re-imported back into the United States or to other international markets. Since this seems to make economic sense and is management-wise expedient, more and more American industries are crossing the border and moving their production base overseas.

WON'T YOU COME HOME, BILL BAILEY?

This exodus of manufacturing is another factor contributing to the worsening of the U.S. trade balance. It also makes state governments even more eager to invite the Japanese industries to fill the void. I wonder if it is not better sometimes for the state governments to shift their emphasis and try to entice some of these expatriate manufacturing plants to return home?

JAPANESE MULTINATIONALS

This brings us back to the subject of our talk. Our title, "The U.S.-Japan relations from the viewpoint of Japanese multinational companies operating in the U.S.," typifies the situation resulting from the increasing number of Japanese companies operating in the United States.

KYOCERA INTERNATIONAL, INC.

Our company, Kyocera, began its first manufacturing activities in the U.S. over 16 years ago. We were a pioneer among Japanese companies. Today, we have four plants, and over 2,000 American employees. I would now like to share our experience and address a couple of problems that may arise again as many other Japanese corporations enter America.

As many of you know, we have come to the United States to engage in the production of ceramic packages for semiconductor ICs. Additionally, we manufacture ceramic multilayer chip capacitors, components vital to electronics. We also have a plant that manufactures ceramic parts for industrial machines.

Generally speaking, our products are small in size, furnished in large quantities, and the unit price is not at all high. But, our products, such as ceramic IC packages, are vital to the U.S. industries. For instance, our ceramic IC packages are important components of U.S. semiconductors, and the majority of them are supplied by us.

DANGER OF PREJUDICE

Because of this, we have sometimes been criticized. To quote an argument, we were told the following:

"The U.S. Semiconductor industry is at a great risk by relying upon Kyocera for their IC packages, since Kyocera is Japanese. We should at once have the U.S. Government and business cooperate and build our own ceramic package industry. Otherwise, we'll be in a terrible dilemma with regard to national security if Kyocera decides to stop supplying us with the packages."

It is true that Kyocera International, Inc., Kyocera America, Inc. as well as other Kyocera subsidiaries, are 100% owned by Kyocera Corporation, headquartered in Japan.

However, the structure of each operation was thoughtfully established in order to foster self-reliance and autonomy within each U.S. subsidiary. And Kyocera was one of the first Japanese companies to have its stocks listed in New York Stock Exchange.

Our U.S. operations were established under the respective State and Federal Laws of the United States. A large number of Americans are involved in top management and more than 95% of our employees are Americans. It goes without saying that these companies pledge allegiance to the United States and refrain from actions that are against the interests of the U.S. government.

It is indeed regrettable, if some people should fear that because their capital is mostly Japanese, these companies under orders from their parent company in Japan, would undertake an action that would damage the American semiconductor industry.

LAND OF THE FREE

This made me think back to how Japanese Americans were interned shortly after the beginning of the Second World War. True, their blood and their appearance might have been entirely Japanese, but they were also full-fledged American citizens.

Historically, America has absorbed many, many immigrants and operated a truly multi-racial society. I believe that the United States is the only country that really possess the know-how to successfully operate such a society. Yet, this same country took American citizens of Japanese ancestry and placed them in internment camps as though they were the enemy.

At the very same time, their sons, young second-and-third-generation Japanese Americans were shedding their blood, rising and giving their lives in the front lines of Europe, proving their loyalty to their country, America.

Because of these dedicated efforts, the social status of Japanese Americans improved after the war. But, it was not until very recently—40 years after the war ended—that the problem surfaced and the American Government officially apologized to the Japanese Americans of that time.

LET US NOT REPEAT THE SAME MISTAKE

Japanese multinational companies entering the U.S. may be operating on Japanese capital, their life-blood and ancestry may be Japanese, so to speak, but they are also bona-fide American companies that operate according to American laws.

They are American companies and America's inheritance. Though such a thing should not happen, there seems to be a trend of thought that says "if American interests should turn and its fortune decline, such corporations would without fail do something to harm the country.

I believe, nothing could be further from truth. These companies are set up in the United States and their plants are built in America to support the country and bring it economic prosperity. These corporations, acting in the same way as the many immigrants who came to this country and naturalized, create a new vitality in the country. As such they should be dealt with in the same way as American people are dealt with. It is a huge mistake to treat them with overt or covert discrimination.

Rather, overseas companies that come to the United States to set up production bases because of the trade imbalance, should be welcomed with open arms. The American economy is in a period of reform and these companies should be thought of as the heralds of a long-term economic revitalization. I am afraid that to hinder this progress will not only make a solution to the trade imbalance difficult, it will also increase antagonism between governments.

RESPONSIBILITIES OF FOREIGN MULTINATIONAL COMPANIES

We as a company that has entered the United States, are well aware of the responsibility we bear in supplying vital components to the American semiconductor industry and will continue to wholeheartedly cooperate and work hard for that industry. A corporation built in America does not work for Japan. It is an American company, by virtue of its contribution to American profits. And operating under these convictions, it cannot be but indignant at inconsiderate remarks.

We are at a stage when more and more foreign companies will be making inroads into the United States. We sincerely hope that the people at the head of the American government should give these problems serious considerations.

Since they were established in the United States, our companies have the intention of contributing to the American industrial world and the state.

AMERICA'S FLEXIBLE SOCIAL SYSTEM

The reason why I have raised this topic today is because I think that unlike Japan, which is hindered by the rigidity of structure, America has a more flexible way of thinking and is a government that is capable of righting wrongs.

UNITARY TAX

The ease with which American society learns to correct its own mistakes is quite a contrast to the rigidity of Japan's national structure.

A case in point is the all too familiar example of the unitary tax method once used

by California and a number of other states. As a foreign-based multinational company, we were in the most unfortunate position of having to suffer this double taxation.

To be more specific, when we first started production in the United States, some 16 years ago, we had to really struggle. Eventually, we were able to post a profit. We used one half of our profit to pay Federal and state taxes, and the other half was retained for reinvestment or for employee welfare.

Then, eight years ago, the unitary tax was put in effect retroactively and we found ourselves paying close to 100% of our profits in taxes. This stiff taxation meant that no matter how hard we worked, we would never be able to use any of our profits for the company's internal reserves.

The amount of money we have had to pay or accrue amounts to more than thirty and some million dollars from California's unitary tax alone. What should have been used for revitalization and capital investment had to go to pay the double taxation. For many years we have been appealing to the state and Federal governments to have the application of this unfair tax concept to foreign operations repealed.

AMERICAN CONSCIENCE

But our effort was worthwhile. Recently, California and several other states have begun to realize the discrepancies and unfairness of the worldwide unitary tax concept and they have started to repeal it. This was a trying time for me, but through this effort, I came to appreciate the soundness of traditional American social conscience and admire its ability to correct its mistakes and correct its direction.

JAPANESE CONSCIENCE

By contrast to the U.S., Japan is embarrassingly powerless in carrying out changes that make common sense. Old customs and archaic rules prevail, and the system cannot adapt readily to a society that is in the process of changing. Japan is at once blessed and cursed by its long history and tradition. Inasmuch as I am aware of the difficulty to change the Japanese way, I am impressed by the flexibility that is a part of the American society.

This ability to redress mistakes as soon as the society becomes aware of them, is felt in our industrial activities in the United States. We are enjoying the freedom and ease of doing business in the United States. . . far more so than in Japan.

JAPANESE CHILDREN IN THE U.S.

In the United States, where we have manufacturing plants, we do have a certain number of Japanese employees who bring their families to live in this country. Their children typically don't speak English. Yet, regardless of the states, be it California, Washington, or North Carolina, we found that the local public schools welcomed our children with open arms.

It is not easy teaching a class of students when there is one who does not understand or speak the language. Yet, what we found was dedicated teachers taking extra time and care to teach our Japanese children, in the hope that they would soon assimilate into the American society, and quickly became functional with regard to their classmates and culture.

AMERICAN GENEROSITY

Watching this, I started to wonder whether Japanese public school teachers would be as tolerant and loving toward American or other foreign students. Wouldn't they throw their hands up saying that this is an impossible task to assimilate them into the homogeneous society that Japan is?

As I was listening to the happy voices of our employees' children, I became grateful that we have had the opportunity to have our subsidiaries in this country and be a part of your wonderful nation, and that I should thank the United States, the respective State Governments, and the American people for having created such a wonderful, truly open and "free" country.

It is my hope and my prayer that this country will regain its vitality to grow strong and healthy, and will continue to prosper as the global leader and champion of our free world.

Thank you for your attention.

TWENTY YEARS OF SERVICE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. LIPINSKI. Mr. Speaker, in a time when the job market is always changing, it is rare to come across a company honoring it's employees for 20 years of dedicated service. That is the reason I wish to honor and call to the attention of my colleagues, four gentlemen who have completed 20 years of service with the United Parcel Service in Illinois.

Hugo Plienius, a trailer mechanic working out of the UPS center located at 6700 West 73d Street, Bedford Park, begain his career 20 years ago as an apprentice mechanic at the company's Jefferson Street facility. Plienius' record is marked with excellent attendance, and good quality as well as quantity work.

Henry Palasek, a housekeeping department porter also working out of the 73d Street facility, began his UPS career in the company's Bridgeview center where he performed a variety of duties. In 1976 he accepted his present position, where he is described as dependable and well liked by his fellow employees.

Joseph Garcia, a package sorter working out of the UPS facility located at 1400 South Jefferson Street, started his UPS career as a trailer unloader in 1967. In 1970 he was promoted to package sorter, and in 1981 to his present position as a small package sorter. It is noted he has a very positive attitude, and does all the jobs in his area well.

Domingo Cisneros, a journeyman mechanic in the Jefferson Street UPS facility also, began his UPS career at the Jefferson Street automotive shop, and has continued to work there throughout his career. Cisneros became interested in mechanics 43 years ago. After serving in the Marine Corps he went back to school to further his studies in this area. His record also shows excellent attendance and quality work.

I am sure, Mr. Speaker, that my colleagues join me and the city of Chicago in congratulating these men on reaching this milestone in their careers. We thank them for their dedicated service, and wish them continued success in the future.

KILDEE HONORS SPRINGVIEW ELEMENTARY SCHOOL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. KILDEE. Mr. Speaker, I am deeply honored and privileged to have the opportunity to inform my colleagues of a joyous occasion taking place on Sunday, October 18. On that date, the Springview Elementary School will celebrate its 20th anniversary. At a time when Springview's first students are arranging their respective adult careers, it is interesting to note that this year's kindergarten class will graduate in the year 2000.

As a result of severe overcrowding which reduced class time in three Flushing area schools to half day schedules, community leaders in 1967 broke ground for the Springview Elementary School. Today, the Springview Elementary School stands as a key facility serving not only the needs of Flushing's children but the entire community as well. Springview is particularly dear to me because along with serving the traditional needs of its student body, it also provides for the important needs of physically and mentally handicapped children. The building is also utilized by area Cub and Boy Scouts, various basketball teams, exercise clubs, and for community education.

Mr. Speaker, thousands of children, and thus the Flushing community, have been enriched through their association with this fine institution. I ask that you and all my colleagues in the Congress reflect this Sunday upon Springview's happy day and the small slice of American heritage that this occasion represents.

LETTER FROM EMBASSY OF CHILE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. FIELDS. Mr. Speaker, it is my pleasure to place in the RECORD a letter recently received in my office from Mr. Errazuriz, the Ambassador from Chile. I encourage my colleagues to carefully consider Mr. Errazuriz' comments and observations regarding House Joint Resolution 349. For the reasons outlined in this letter, I urge my colleagues to refrain from associating themselves with the resolution.

Knowing Mr. Errazuriz personally, he is a gentleman who represents well the domocratice aspirations of his government and people. I encourage my colleagues to call upon the Ambassador with any questions they may have regarding this ill-conceived resolution or the domocratice reforms being instituted by the Government of Chile.

EMBASSY OF CHILE,
OFFICE OF THE AMBASSADOR,
Washington, DC, September 22, 1987.

Hon. JACK FIELDS,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN FIELDS: About three weeks ago, Congressman Doug Bereuter from Nebraska introduced House Joint Resolution 349 "In Support of a Transition to Democracy in Chile." This resolution, I am certain, was conceived as a signal of support for the process of transition to democracy in Chile.

Unfortunately, this proposal, instead of becoming a moderate bipartisan approach to that end has developed into a long negative resolution filled with critical statements which avoids even a single sentence of recognition of Chile's undeniable political, economic and social progress.

Of 32 preambular paragraphs in the resolution only seven contain no distortion of fact and the operative part contains either impositions unacceptable to a sovereign country or measures already provided for in the transition formula under way. Many preambular paragraphs actually restate the position of those who in the past failed in their attempts to impose sanctions on Chile. Not surprisingly, some of them have joined this resolution as co-sponsors.

Thus, the great majority of the members of the House of Representatives who have an interest in Chile and who sincerely wish to encourage transition to democracy are confronted with a proposal which, because of its notoriously negative character, would have a counterproductive effect in Chile.

Mr. Congressman, in the last twelve months Chile has legalized political parties, allowed 90% of the exiles to return, initiated electoral registration, and curtailed the powers of security services. Also, a strong opposition media has developed and circulates freely.

Chilean workers, under present labor legislation, enjoy an unprecedented freedom to organize and to manage their own affairs, and for the first time ever their rights are guaranteed by the Constitution.

Not a word about these facts is mentioned in the Resolution.

Chile also has the most open economy in Latin America, enjoys the best indicators of economic performance in the region and has an excellent record of debt repayment. In addition it has been highly praised by the World Bank as having one of the two most successful social policies in the region.

Again, nothing about this is mentioned in the Resolution.

If a Resolution of this kind is going to have a positive effect, it has to be balanced, fair and accurate. Obviously H.J. Res. 349 does not meet any of these standards.

The people and the Government of Chile welcome respectful and friendly exchanges of ideas with members of the United States Congress, as was recently the case when a Congressional delegation visited Chile last month. That visit provided a good opportunity for U.S. Congressmen to express to the Government and to political forces in Chile the opinion in the U.S. Congress concerning the process of transition to democracy in Chile.

The people of Chile will not receive such a negative resolution with the same positive attitude. H.J. Res. 349, in its present form, can have no positive response in Chile, cannot advance United States diplomacy in Chile. Neither will it contribute to the task of rebuilding our democratic system, a priority for all Chileans. Instead, it is bound to create strong Anti-American feelings in a people which, throughout its history, has given ample proof of self-respect and independence.

I trust that you will not support such an erroneous approach.

Best regards.

Sincerely yours,

HERNÁN FELIPE ERRÁZURIZ,
Ambassador of Chile.

MEDICAL SUPPLIES TO NICARAGUA

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. BUNNING. Mr. Speaker, earlier this spring I visited Nicaragua on a fact finding tour of Central America. We visited and talked with many people in that country, including those in support of the Government and those opposed.

Perhaps the most interesting person that I talked with while there was the priest of the largest church in Nicaragua. Our discussion with him was very frank and open.

At the end of the discussion I asked him a question. "If there was one thing that I could do for you and the people of your church, what would that be?" The answer surprised me, because it had nothing to do with the very volatile political issues facing Nicaragua.

The priest told me that his parish was in desperate need of basic medical supplies. He said that the economy of Nicaragua was so slow that even if his parishioners had the money to buy aspirin, and even if they wanted to stand in line for an hour to get into a drug store, no aspirin could probably be found. He said that even a small amount of basic over-the-counter medical supplies could drastically improve the lives of the people in his church.

Needless to say I was deeply moved by the plea of the priest. When I returned to America I could not get the request of the priest out of my mind. Shortly thereafter, with the help and support of many good Christian people of the Fourth District of Kentucky, we began a drive to collect basic medical supplies for the churches in Nicaragua.

On September 13, 1987, on behalf of the people of the Fourth District, I delivered to the church over $5,500 in medical supplies. The supplies varied from aspirin and vitamins to toothbrushes and toothpaste.

I wish to take this opportunity to thank the following who made this endeavor possible.

When this project presented itself, the first people that I contacted were the Jaycees. This was not an easy project to run and I needed their leadership to help plan, coordinate, and execute.

The Jaycee creed is the foundation upon which the Jaycees are founded. It states every Jaycees faith in God, brotherhood of man, economic justice, government of laws, human personality, and service to humanity.

All of these beliefs were realized when the Jaycees helped in this program.

I would like to especially thank Ruth Eger, president of the Covington-Kenton County Jaycees; Don Mattingly, community development vice president, Melanie Bingham, director in charge, and Kateri Thompson, program manager and all of the members of the Covington-Kenton County Chapter.

Next we looked to the leaders in Kentucky's pharmaceutical community for help in formulating a list of needed supplies and help in collecting those items.

Robert Begley of Begley Co. in Lexington and Geof Scanlon of Scanlon Drugs in Covington helped put together a list of supplies that we would need.

Next Geof and Bill Farrell of Farrell's Pharmacy in Ludlow cosigned a letter with me to all of the pharmacies in the Fourth Congressional District of Kentucky asking them to contribute supplies from the list.

Geof Scanlon operates Scanlon Drugs in northern Kentucky. Next year Scanlon Drugs will be celebrating their 40th year of service to the community. Geof is a decorated veteran of the Vietnam war, being awarded both the Bronze and Silver Stars.

Bill Farrell is the third generation of druggists to serve the small community of Ludlow, KY. Farrell's boasts an over 80 year tradition of service.

The letter which we sent out received a tremendous response. Numerous drug stores responded donating over $5,500 in much needed medical supplies. I would like to publicly thank those drug stores and druggists who responded.

Save Discount Drugs in Covington, Crestville Drugs in Crescent Springs, Medical Village Pharmacy in Edgewood, Boeckley Drugs in Covington, Farrell Pharmacy in Ludlow, Kroger Pharmacy in Bellevue, Burlington Pharmacy in Burlington, Your Pharmacy in Hebron, Scanlon Drugs in Covington, Martin's Pharmacy in Cold Spring, Newport Drug Center in Newport, Paul's Pharmacy in Covington, and Morgan and Thomas Drug Store in Owenton.

To all of you who were involved in this project I want to thank you from the bottom of my heart. Your compassion and charity have made life just a little bit easier for the impoverished people of a foreign land. Thank you.

A TRIBUTE TO CHRIS JARVI

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. DORNAN of California. Mr. Speaker, Chris Jarvi, director of parks, recreation, and community services for the city of Anaheim, CA, in my 38th District has found an excellent way to maintain city parks while teaching elementary schoolchildren about nature and the environment. As the following article from Western City magazine describes, the "Kids for Parks" program has instilled civic pride in more than 600 students who have worked to maintain the quality of their community—the home of Disneyland and Anaheim Stadium.

Mr. Speaker, I urge my colleagues to share the article "Kids Adopt Anaheim Parks" with community leaders in their districts. I think they will discover, like Anaheim, that kids can make a difference.

The article follows:

KIDS ADOPT ANAHEIM PARKS

(By Sheri Erlewine)

Since 1981, students from Anaheim's elementary schools have volunteered over 1,600 hours beautifying city parks. The "Kids for Parks" is an innovative educational program developed by Anaheim Parks, Recreation and Community Services Director Chris Jarvi as a response to vandalism in parks located near area elementary schools. It is projected that third graders will volunteer thousands of hours in 1987 painting, planting trees and picking up litter.

What is "Kids for Parks"? Each school adopts a nearby park where students work with maintenance staff to improve park surroundings. The children are taught the proper way to paint, dig, rake, edge and hoe.

"Our maintenance staff was surprised with the efficiency and neatness of the children," Jarvi says. "They looked forward to the visits by the young volunteers. Both the students and the staff make new and lasting friendships each school year." In addition, third grade subjects such as reading, writing and mathematics are integrated into such projects as poems about the environment, sketches of past community leaders and an introduction to metric measurement of park facilities.

Starting with 260 students from one school, the program has since grown to more than 600 students from eight schools, with 15 additional schools soon to be added. Students are given a "hands-on" opportunity to improve and maintain the appearance of their neighborhood parks. They become familiar with the park staff, and, because the parks are close to home, they can keep an eye on "their" parks.

"Not only does this program increase opportunities for students to receive an environmental education," Jarvi says, "but it is limitless, because the children gain a lifelong appreciation for nature and an understanding of the values of parks in their future.

Although the importance of being a volunteer is taught, special recognition is given in the form of badges worn by the children during the park projects. They also receive a certificate of appreciation and a special picnic at the school's "adopted" park.

"Kids for Parks" has generated the participation of local parents and financial assistance from businesses and community organizations. The program was a recipient of a $2,000 Disneyland Community Services Award in 1984 which was used to develop filmstrips, provide environmental learning materials for classrooms and purchase trees and plants for the parks.

"We are extremely proud of this program, and we have the entire community to thank for its success," says Jarvi. "More than 30 cities and agencies throughout the United States and Canada have requested information on "Kids for Parks'."

This innovative program has given Anaheim a new way to promote healthy community relations while maintaining city parks and educating children. A multi-media slide show and video presentation, have been developed for service clubs, student assemblies, and other organizations.

CENSUS BUREAU REPORT ON CHILD SUPPORT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. MILLER of California. Mr. Speaker, I would like to draw Congress' attention to the shocking findings of a recent Census Bureau report on child support. In 1985, only 1 out of 4 children received full child support payments from their absent fathers. And, since 1983, the average amount of support has actually declined in real terms, from $2,530 in 1983 to $2,230 in 1985.

Nonsupport is a significant contributor to poverty. In hearings held before the Select Committee on Children, Youth, and Families, we learned that divorce is the crisis that pushes too many female-headed families into poverty. Recognizing this, both houses have included tough child support enforcement measures in current welfare reform proposals.

Beefing up child support collections will help to cut the U.S. welfare bill. But, what troubles me, Mr. Speaker, are the millions of women and children cut off from the child support system altogether. The Census Bureau report tells us that the lower your paycheck, and the darker your skin, the less likely your family will ever be awarded—let alone receive—child support payments.

According to the Census Bureau, only 40.4 percent of poor mothers were awarded child support in 1985 compared to 61.3 percent of nonpoor mothers. Two-thirds of women and children living in poverty actually received child support payments compared to three-quarters of nonpoor female-headed families. Additionally, 7 out of 10 white mothers were awarded support in 1985, but only one-third of black mothers and two-fifths of Hispanic mothers obtained child support awards.

Why are poor women and children often beyond the reach of child support? Sometimes, absent fathers are impossible to locate, or paternity is difficult to establish. But what it most often boils down to is money. The Census Bureau reports that men's real earnings have risen just as mean annual payments for child support have dropped. Yet, for young, disadvantaged men, real earnings have actually dropped nearly 30 percent between 1973 and 1984, from $11,572 to $8,072 in 1984 dollars. And the real decline in the earnings of black men is closer to 50 percent. An economic future without opportunity provides little hope that such fathers will be able to support their children.

It is the responsibility of Congress to ensure that all children receive the support to which they are entitled. Strong child support enforcement is one strategy. But for the millions of poor and minority children left out of the system altogether, we have a special duty to their parents to improve education, training, and employment so that they might provide for their children.

TRIBUTE TO HELEN SWOPE

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. GEKAS. Mr. Speaker, on Saturday, October 17, 1987, I will have the pleasure of paying tribute to a person who has devoted her entire life to the enrichment of her community. When one mentions the Heart Association, the Foreign Service of the United States of America, the Harrisburg Civic Club, the Mental Health Association, the Dauphin County Bar Association, Sertoma Club, WITF-TV, and Harrisburg Community College to name just a few, the name Helen Swope immediately comes to mind. These are the organizations that have honored her at one time or another because she gave of herself to them.

Helen Swope will be honored once again on October 17 by the board of trustees and president of Harrisburg Area Community College when they dedicate the Helen Y. Swope Carillon-clock tower. The college will also establish a fund of $35,000 as a tribute to Mrs. Swope's career in public service and her commitment to higher education. The fund will be called the Guy J. and Helen Y. Swope International Education Endowment Fund.

Mrs. Swope has led a very distinguished career. She was elected as a charter member of the board of trustees of the Harrisburg Area Community College in 1964, and was a founder of the community college concept. She was the first woman, and the first person of Oriental heritage to be elected as a community college trustee in the Commonwealth of Pennsylvania.

Mr. Speaker, Helen Swope has given so much to her community. I would like to extend my personal congratulations to her for many jobs well done.

A CONGRESSIONAL SALUTE TO BROTHER PATRICK SOPHER, C.S.C.

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a truly outstanding man who has devoted his life to the ministry of God, Brother Patrick Sopher. Brother Patrick will be honored at the Hyatt Regency Hotel in Long Beach by the Saint Anthony High School Foundation.

Brother Patrick Sopher was born April 20, 1943, to William M. and Bonnie K. Mcbride Sopher in Spokane, Washington. Brother Patrick and his family moved to Long Beach, CA when he was just a young child. He attended Alice M. Birney Elementary School, St. Catherine's Military School in Anaheim, and Washington Junior High School. Brother Patrick graduated from St. Anthony High School in Austin, TX, and received his bachelor of arts degree at the University of Notre Dame cum laude in 1968.

Even before his graduation from college, Brother Patrick taught English, speech, and religious education at Notre Dame High School. For 10 years he served as a teacher of history, civics, religion, and speech at St. Francis High School, Mountain View; while acting also as dean of men, dean of students, and eventually assistant principal. Following his tenure at St. Francis, Brother Patrick was asked to join the provincial administration at St. Edward's University where he served as assistant provincial and the first province planner from 1976 to 1979. In 1979 he became the provincial superior of the Brothers of Holy Cross, South-West Province, a position he maintains today.

Brother Patrick has always been a very active leader. His accomplishments range from work on many school yearbooks, organizing speech teams, acting as class moderator, serving on the Chess Club, to working as an assistant superior, the director of candidates to the Brothers of Holy Cross, and finally a 3 year dedication as director of provincial residence for his local community of brothers. His many affiliations include serving as chairman for the WCAL Dean's Association, WASC School Visitation Committee, Southern Association Accreditation Visitation Committee, Region 4, Conference of Major Superiors of Men, and his current role as national board member for the Conference of Major Superiors of Men.

Mr. Speaker, Brother Patrick Sopher is hailed as a strong, spiritual, and compassionate leader. Because of his superior intelligence and ability to understand the hardships of his fellow man, Brother Patrick Sopher has been called a sensational man of superior genius. The intellect, insight, and ability he has shown over the years has helped so many in his community. His life and work are eloquent testimony to that belief. My wife, Lee, joins me in congratulating Brother Patrick on his many great accomplishments. We wish him happiness and all the best in the years ahead.

A TRIBUTE TO THE AKRON ART MUSEUM, THE AKRON SYMPHONY ORCHESTRA, AND OHIO BALLET

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. SAWYER. Mr. Speaker, I rise today to recognize three outstanding cultural organizations located in my congressional district: the Akron Art Museum, the Akron Symphony Orchestra, and Ohio Ballet.

Yesterday, the National Endowment for the Arts held a press conference in Akron, OH, to announce the fiscal years 1987–88 Challenge Grant awards. The NEA selected Akron for its Challenge Grant announcement because, of the 87 awards totaling $27.5 million, 7 went to organizations in Ohio with 3 of the 7 made to the institutions named above.

The Akron-Summit County community has long recognized the invaluable cultural contribution made by the Akron Symphony Orchestra, Ohio Ballet, and the Akron Art Museum. However, the National Endowment for the Arts' recognition underscores the high quality of artistic achievement these organizations have attained. It is a tribute that is truly deserved.

I herewith submit my remarks delivered at the National Endowment for the Arts press conference:

Today is an enormously special occasion for Akron. In recognition of the outstanding cultural institutions in Akron, the National Endowment for the Arts has selected our city as the location for its announcement of the 87 Challenge Grant awards totaling $27.5. While this, in itself, is an honor for Akron, the true tribute here is that, in the State of Ohio, seven Challenge Grant awards are being made with three of the seven located in our city, alone.

The significant cultural contribution made by the three Akron Challenge Grant recipients, Ohio Ballet, the Akron Art Museum, and the Akron Symphony Orchestra, is well understood and appreciated by those of us who have had the good fortune of living in our community. But today, it is truly a time to celebrate. The support from the National Endowment for the Arts and the national recognition these awards, totaling $600,000, to bring to three of Akron's cultural institutions is a tribute that has been earned by the organizations through a continuing strong effort to promote the arts and by the community that provides the year in, year out support that makes it all possible. We should be proud.

The competition for funding under the Challenge Grant Program is fierce; yet the Akron Art Museum, the Akron Symphony Orchestra, and Ohio Ballet prevailed through all levels of review and, in doing so, demonstrated that the organizations can compete and prevail in nationwide competition. In the field of the arts, these institutions are clearly among the finest of their kind in the Nation.

The Challenge Grant Program is an invaluable resource for institutional development in the field of the arts—particularly for the expansion and development of smaller artistically established institutions. As a program requiring participants to match Federal awards on a three to one ratio, the 1987 awards totaling $27.5 million will generate more than $200 million in new non-Federal funding over the next 3 years. Challenge Grants, however, can only be the catalyst. It is the private donations and gifts that are the life blood of these organizations. The National Endowment for the Arts and Congress understand the obstacles artistically accomplished institutions face in the pursuit of contributions from private sources—so on the theory that money begets money—the Challenge Grant Program was conceived.

This year is the 10th anniversary of the program and evidence of its success is demonstrated in the $1.4 billion that has been generated from private sources since 1977. This is a program that I fully support and, as a member of the Committee on Education and Labor which has jurisdiction over the National Endowment for the Arts authorization, I am proud to be able to take part in this announcement today in this very special way.

I want to thank the National Endowment for recognizing the cultural and artistic contribution that the Akron Art Museum, Ohio Ballet, and the Akron Symphony Orchestra have made—for giving its support through the Challenge Grant Program, enabling each organization to pursue further institutional development and artistic initiatives that will enhance and expand the cultural contribution these institutions can make to the arts community and the quality of our lives.

To Ohio Ballet, to the Akron Symphony Orchestra, and to the Akron Art Museum, I extend heartfelt thanks. I know the enormous contribution you have made to our community and the contribution our community has made to each of you. I also know that the recognition and funding support you and the Akron area are receiving today is well deserved. Congratulations.

SUPPORT FOR A GERMAN HEAD OF NATO

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. BEREUTER. Mr. Speaker, as we consider an impending treaty to remove INF missiles from Europe, one discovers that the Atlantic alliance's remaining nuclear deterrence designed to offset Warsaw Pact conventional superiority is less credible than ever. The escalatory link, in a "flexible response" strategy, between our short range dual-capable systems and the strategic forces of the United States and even those of Great Britain and France has never been very robust. One consequence of removing the intermediate range weapons is to ensure that if war comes, it may be possible to limit nuclear exchanges to the immediate tactical arena, or Germany.

This Member anticipates that any growing neutralism in Germany would weaken the Alliance and further the process of "decoupling" of the European and North American partners of the NATO alliance. The United States must reassure our European partners that we are fully responsive to their concerns and supportive of their efforts for a greater European role in its defense. In particular, it is appropriate that Germany be given greater recognition for the vital role it plays in preserving the common Western defense.

This Member welcomes the possible appointment of Manfred Woerner, the German defense minister, to replace the retiring Lord Carrington as NATO's Secretary General. On October 6, 1987, the Lincoln Journal published a thoughtful editorial on this subject that I commend to the attention of my colleagues. The editorial follows:

RECOGNITION FOR WEST GERMANY

Not since the North Atlantic Treaty Organization was formed after World War II has a West German held the key structural position seemingly reserved for Europeans. But that situation is about to change.

Manfred Woerner now seems something of a favorite to succeed Britain's Lord Carrington next June as NATO's secretary-general, the organization's highest civilian post. Woerner is West Germany's defense minister. Traditionally, NATO's supreme military chief has been the American who also com-

mands all U.S. national forces assigned to Europe.

When repeated efforts to convince Carrington to change his mind about stepping down failed, Norway, in early August, proposed its former prime minister, Kaare Willoch, as secretary-general. That was followed by Bonn's competitive declaration of support for Woerner.

Now the diplomatic network reports that Belgium, France and the United States discreetly have lined up in favor of the West German. The forecast is that Oslo will, in coming weeks, quietly fold its bid for Willoch in the interests of harmony.

West Germany is the economic powerhouse of Free Europe. Its geographic position is on the front line of the perpetually feared Soviet-inspired invasion route. More than any other Allied nation, West Germany would be the scene of tactical nuclear strikes should a dreaded East-West war ever occur.

Which boils down to saying West Germany has a paramount interest in maintaining NATO's strength and credibility.

That West Germany should be granted a leadership post in NATO commensurate with its station in the Atlantic Alliance is only fair and just.

NATIONAL VOLUNTEER APPRECIATION DAY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. HORTON. Mr. Speaker, who among us has not benefited from help from a volunteer? All across the country, millions of people give their valuable time to help others. It is time to honor these special people—America's volunteers. Today I am introducing a resolution designating November 1, 1987, as National Volunteer Appreciation Day. I urge my colleagues to join me in this effort.

Every American has been helped in some way by volunteers. They play a central role in every community. Volunteers perform vital, often unheralded tasks. They drive vans for the elderly. They help the sick in hospitals and provide food and clothing for the poor. Volunteers in schools teach our children to read and to learn. Volunteers help combat adult illiteracy, and they assist the handicapped and the disabled with shopping, errands, and tax forms.

National Volunteer Appreciation Day will pay tribute to these special people. The resolution will increase public awareness of the work performed by volunteers. The text of the resolution follows:

H.J. RES. 375

Whereas approximately 84 million people in the United States 13 years of age or older volunteer each year to assist nonprofit organizations, neighborhood groups, and individuals;

Whereas volunteers support and participate in numerous activities, including health, educational, religious recreational, political, social welfare, community action, artistic and cultural activities;

Whereas volunteers provide services that often would be otherwise unavailable or too expensive;

Whereas volunteers do not seek compensation for their services or act out of legal obligation, and volunteer service illustrates the optimism, compassion, and freedom that typifies the people of the United States;

Whereas virtually all of the people of the United States are helped in some way by volunteers;

Whereas many nonprofit organizations that rely on volunteers have too few volunteers to meet the increased need for assistance caused by adverse economic conditions and changing demographic trends;

Whereas more people should volunteer to assist nonprofit organizations, neighborhood groups, and individuals; and

Whereas there is a need for greater public awareness of, and support for, the work performed by volunteers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 1, 1987, is designated as "National Volunteer Appreciation Day," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Finally, I would like to enter in the RECORD a letter I received from a constituent of mine, former Auburn, NY, city councilman, Francis J. Mastropietro. He writes strongly in support of a national day of appreciation for America's volunteers.

The letter follows:

My definition of a volunteer is a person who gives of himself to help his or her fellow man, merely out of the goodness of his or her heart. These unsung heroes come in all sizes, shapes, religions, and races. They are always ready, willing, and able to give of themselves to help another human being or a worthy cause. We see them daily: always seen, but rarely recognized.

One of the ten commandments tells us to "love thy neighbor." Who has any greater love for his neighbor than a dedicated volunteer? Always serving, never asking anything in return. The people they help are probably the only ones who really appreciate them. The rest of us often take them for granted.

I wish to make the following request to Congress. I respectfully ask that a special day be designated in recognition of volunteers all across the United States. Let us do it now, and give these volunteers their due. Enact a National Volunteer Appreciation Day.

THE SOCIAL SECURITY SURPLUSES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, October 14, 1987, into the CONGRESSIONAL RECORD:

THE SOCIAL SECURITY SURPLUSES

In the next few years, social security will be facing a new kind of problem—the problem of how to handle large surplus funds. After years of battling just to keep the program solvent, significant changes were made in social security financing in 1983 to build up large surpluses to be drawn down when the baby boomers retire in the early part of the 21st century. Yet there is uneasiness about how to handle the expected social security surpluses. Concern is growing that the past practice of investing any surplus funds in federal government securities may no longer be the safest and wisest course.

The large surpluses will result from the changes made in the 1983 social security rescue package. The baby boomers, those born between 1946 and 1964, were becoming skeptical that their social security benefits would be there when they retired. They were paying much heavier taxes than their parents' generation (for example, maximum annual social security taxes of $1700 in 1983, compared to $54 per year thirty years earlier); moreover, they faced the prospect of too few workers to support their large numbers when they retired. The solution devised in the 1983 package was to have the baby boomers pay for a large part of their own future social security benefits. Unlike earlier workers, whose social security taxes basically went out immediately as benefits for those then retired, baby boomers would pay both the benefits of current retirees as well as much of their own future retirement. They would contribute to the build-up of huge surplus trust funds, which would then be tapped during their retirement.

Barring major, unexpected economic or demographic changes, the surpluses building up will be enormous. The current social security surplus is $65 billion, enough to pay benefits for only a few months; by the year 2030, the surplus should approach $13 trillion, enough to cover payments for several years. Expressed in 1987 non-inflated dollars, the surplus would reach $2.5 trillion, almost equal to the present value of all the stocks on the New York Stock Exchange. Once these surpluses are built up, they will be rapidly drawn down for the baby boomers' retirement benefits, and exhausted entirely by the year 2051.

The problem is that the past way of handling social security surpluses may not work for such enormous funds. In the past, any surplus funds have been invested in special government securities—in effect, loaned to the federal government for other purposes. Such loans have always been repaid by the federal government, with interest. Yet this may no longer be the safest use of the surplus social security funds. Social security may be getting IOUs from the government for the loans, but a question emerges about what assets will back these IOUs. The loaned funds are basically used to cover federal deficit spending and to service the national debt; they are not just piling up somewhere. The question is whether the trillions of dollars of IOUs social security will be getting from the federal government will be worth much when the funds are needed for the baby boomers' retirement years. When the surpluses are used to pay for the federal deficit, the net effect is to save nothing. That means that the government IOUs to social security may eventually have to be repaid by raising new taxes, and the problem of a future crunch again appears.

Some persons suggest changing the trust fund investment policy to allow investment not only in federal securities but also in private stocks and bonds. The idea is to make the surpluses more secure, while also dramatically increasing the capital available for long-term investment in the nation's economy. Social security, which is sometimes criticized for draining capital away from productive investment, would become a

major source of funds for investment in companies and technologies that could restore America's competitiveness. At the same time, such investment might produce significantly higher yields for the trust funds than the current investment policies. Proponents argue that even if the surplus funds achieve below average returns, the returns still could be enough to allow the elimination of the social security payroll tax entirely by the year 2020. A beneficial side effect would be that if the surplus social security funds are no longer an easy source of funds for financing the federal deficit, continuing the current practice of deficit spending would be tougher.

Critics argue that this new investment policy will not increase net funds available for private investment, since any social security funds not available to finance the federal deficit would have to be offset by borrowing more private funds. Moreover, the new policy would embroil the federal government in endless controversy over the purchase and sale of private securities, and would introduce major uncertainties into social security planning. They also argue that the size of the government investment in Wall Street could overwhelm the market, and could result in federal ownership of a large chunk of private industry.

Others criticize the policy of allowing such large surpluses to develop in the first place, preferring to let social security tax rates rise or fall according to projected benefit payment levels. Still others feel that once any surpluses start to accumulate, Congress will bow to the inevitable political pressures to increase benefits to current retirees. The biggest check on major tampering with the current benefit or tax structure is that the baby boomers will soon become the largest voting bloc. The 1983 reforms provided them with hopes that social security will be there when they retire. They will not take lightly to proposals that could again put their benefits into doubt.

The disposition of the projected surplus funds is an issue that will be before the Congress for years to come. Overall, my sense is that alternative investment policies for the social security surpluses are worth exploring. We must be careful not to endanger the funds with risky or speculative investment practices. Yet the potential benefits of making the surpluses more secure than loans to finance the federal deficit, providing a better return, while at the same time increasing America's competitiveness, suggest to me that this is an idea that deserves serious consideration.

THREE WITNESSES

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. LIPINSKI. Mr. Speaker, I rise today to inform my colleagues of three witnesses who gave enlightening testimony recently in front of the Commission on Security and Cooperation in Europe [CSCE]. The three—Tiit Madisson, Rolands Silaraups, and Vytautas Skuodis—provided an authentic and tragic glimpse into what actually occurred when the Soviets occupied the Baltic countries and what it now means to live in the Soviet-dominated nations of Estonia, Latvia, and Lithuania.

Tiit Madisson, a native Estonian, told of how he helped organize the first grudgingly allowed demonstrations in the capital city of Talinn. On August 15, 1987, Madisson formed the "Estonian Group for Publication of the Molotov-Ribbentrop Pact" in order to expose the ugly truth about the Soviet-Nazi division of Eastern Europe and subsequent invasion and conquest of the sovereign Baltic nations. The demonstration occurred on August 23, 1987, 48 years after the signing of the infamous pact.

Although Madisson was not allowed to demonstrate in front of the city hall, he and several thousand Estonians and other Baltic peoples were able to take part in a nearby park. Madisson stated that when he informed the crowd about the accurate number of people arrested and put to death during the initial years of Soviet power, the truth "stunned" the listeners. A demand to have Soviet as well as Nazi criminals brought to justice was received by the listeners with a "strong round of applause," as was mention of the constitutional right to self-determination and secession.

Even though the authorities went out of their way to disrupt and belittle the meeting—by changing the location of the demonstration at the last moment and paying certain persons to carry posters criticizing the demonstrators as fascist agents—it was a great success and a testimony to the spirit of undying liberty and freedom on the part of those who participated.

A Latvian, Rolands Silaraups, who helped organize a demonstration in Riga on June 14, 1987, in remembrance of the first Stalinist deportations also testified. Again, the local authorities in conjunction with the KGB attempted to disrupt the gathering by openly threatening participating members and scheduling a "sports festival" on the day of the demonstration. A videotape shown at the hearing showed many demonstrators placing flowers at the Freedom Monument—a memorial to those the many were arrested, deported, and killed by the Soviet invasion. Silaraups informed the committee and those present that the many flowers laid at the monument were all soon taken away after the demonstration by the authorities, only to be replaced the next day by fresh ones. August 23, 1987, demonstrations in Riga were met with force by representatives of the government, who broke into an apartment where organizers had gathered with total impunity and disregard for the law. Upon hearing their actions were unconstitutional, they "laughingly" answered that this was of no concern to them.

Vytautas Skuodis, a Lithuanian who was born in my hometown of Chicago, related the terrible situation of the Roman Catholic Church in Lithuania. A lecturer in geology at the University of Vilnius and member of the Lithuanian Helsinki Monitoring Group, Skuodis told of an insightful study he had done on the amount of religious printed matter versus atheistic literature in order to prove how futile an exercise atheism was for the Soviets in Lithuania. 1,700 tons of atheistic versus 9 tons of religious material. And in the former, Skuodis found not one writer who was even so much as mentioned in a scholarly bibliography of Lithuanian historians. Most of atheistic literature was used as slanderous attacks against priests and the Vatican and in no way presented any sort of scholarly argument or desire on the part of the populace for atheism. Skuodis stated that KGB infiltration of the Lithuanian Church was at an "all-time" high and believers find it difficult to practice their faith without fear. Although glasnost has enabled some discussion of sensitive issues, language and culture still suffer under the intrusive Russification tactics of the Soviets, and no one, save emigre circles abroad, is allowed to speak of national rights without risk of labor camp internment.

Mr. Speaker, these three witnesses represent just how alive the aspirations and hopes for freedom are in the Baltic countries. Indeed, two of the three are under the age of 40 and thus were born after the Soviet invasion, with all its lies and propaganda, indicating the desire for sovereignty is certainly not confined to those who remembered what it actually meant in practice. They represent how far the policy of glasnost needs to go before it achieves anything approaching freedom of speech. Although demonstrations were allowed to be held condemning the evil Molotov-Ribbentrop Pact, two of the organizers, Rolands Silaraups and Tiit Madisson, agreed to leave their respective countries. In reality they were forced to leave: Silaraups left when it became apparent that he would be harassed for his activities, Madisson was told to go West or suffer the same fate as Mart Niklus, an Estonian prisoner of conscience now serving a 10-year sentence in the notorious Perm Camp No. 36.

I commend Congressman HOYER and Senator DECONCINI, respective Chairman and Co-Chairman of the Commission on Security and Cooperation in Europe, for holding the hearings, providing an opportunity for these witnesses to give their testimony, and reaffirming the resolve of the United States never to recognize the incorporation of these nations into the Soviet Union.

TRIBUTE TO SHIRLEY GOUGH

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. KILDEE. Mr. Speaker, it gives me great pleasure to pay tribute to Mrs. Shirley Gough of Grand Blanc, MI, for her 31 years of faithful service at the Michigan Employment Security Commission [MESC]. Mrs. Gough started with the MESC in 1954 as a switchboard operator. After taking 2 years off to raise her daughter, Tannith Lynn, Mrs. Gough ably filled several positions within the MESC, including Step Program coordinator, Job Corps opportunities specialist, and CETA Program supervisor. She is now retiring from the commission as the assistant manager of the MESC office in Flint, MI.

Mr. Speaker, the Seventh Congressional District of Michigan, which I have the honor to represent in Congress, has been particularly hard hit in recent years by levels of unemployment far above the national average. We all know the terrible human toll the loss of employment can inflict on working people. Their

lives and livelihoods are threatened, the security and well-being of their families are placed in jeopardy, and their peace of mind shattered by this traumatic experience.

For 31 years Shirley Gough has sought to alleviate the suffering of unemployed people in the Genesee County area. In that time, she has touched the lives of thousand of people who have come to the MESC seeking help in putting their lives back together after having lost their jobs.

Shirley Gough will also be sorely missed by her coworkers in the Flint MESC office. Her dedication, her professionalism, and her enthusiasm for her work has been an inspiration to those who worked with her. Her long experience in all aspects of the MESC's operations made her a unique source of information for new employees. People who worked with her know that she was never too busy to listen to the problems of employees and clients, she was always willing to follow through to see projects to their completion and, perhaps most importantly, she made both clients and coworkers feel that she really cared about them.

Mr. Speaker, the departure of Mrs. Shirley Gough from the Michigan Employment Security Commission office in Flint, MI, will leave a gap that will be very difficult to fill. I sincerely thank her for her 31 years of dedicated public service in behalf of the thousands of unemployed people whom she has assisted.

A TRIBUTE TO DEPUTY ROY MAYS AND SAFETY BELT USE

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. PURSELL. Mr. Speaker, "safety belts save lives," may be a common, frequently used expression by law enforcement agencies. But it has a vivid, literal meaning to Deputy Roy Mays of the Washtenaw County, MI, Sheriff's Department.

On December 26, 1986, while enroute to back up another unit, Deputy Mays was involved in a potentially tragic accident. His vehicle was traveling 45 miles per hour when a vehicle traveling the opposite direction made an abrupt left turn, failing to yield right of way. The accident that resulted totaled the patrol car, but Deputy Mays and his partner sustained only minor cuts from flying glass because they were secured by their safety belts.

The driver of the other vehicle was not wearing his safety belt and was seriously injured.

As a result, Deputy Mays is now a frequent, outspoken supporter of the importance of safety belt use. Because of the excellent work of law enforcers like Deputy Mays in Washtensaw County, the county has the highest safety belt use—62.4 percent—in Michigan according to the University of Michigan Transportation Research Institute.

Deputy Mays is being honored today, with officers from the other 49 States and Washington, DC, by the American Coalition for Traffic Safety. Each officer has a similar story about avoiding serious injury, even death, because of a simple safety belt.

There is little doubt safety belts, and child safety seats, have proven to be effective in reducing highway fatalities and injuries. Thousands of lives and millions of dollars in medical and insurance expenses have been saved by the few seconds it takes to buckle up.

I ask my colleagues in the House of Representatives to join me in honoring Deputy Roy Mays, and the 49 officers like him, for their continuous efforts to promote the use of safety belts. If we all followed their example, there is no telling how many citizens, friends, and relatives, may be saved by the belt.

WHY SANCTIONS ARE A FAILURE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. FIELDS. Mr. Speaker, the recent U.S. News & World Report carried the following article discussing and reporting the failure of sanctions upon South Africa. When this body debated this very issue, a majority of the Members refused to listen to those, including elected leaders among the black community in South Africa, who predicted these very results. In the face of this utter failure, we hear talk of imposing additional sanctions. It's time to return to a more constructive policy of working with an important and strategic American ally, and turn away from a policy born of blind hatred, and sympathy for ANC terrorists. To really help the black people of South Africa, we should begin listening to those black leaders who really speak for their peoples. Their message is that sanctions and disinvestment only hurt and hinder black progress.

WHY SANCTIONS ARE A FAILURE

(By Simon Jenkins)

As soon as America's General Motors Corporation bowed to sanctions pressure and pulled out of South Africa, its local management moved fast. Renamed Dalta Motors, the auto company removed 500 workers, dropped off the "Sullivan list" of firms enforcing integrationist work practices and reversed the policy of not selling to the apartheid regime. GM thus joined some 80 American firms that have left South Africa in the past 18 months. As Congress begins a review of sanctions legislation, the results are hardly contributing to the antiapartheid cause.

South Africa, in fact, is changing from being a classic case for economic sanctions to a classic case against them. As a tool of foreign policy, sanctions always have been easier to advocate than to impose, let alone succeed.

Succinctly put, sanctions are one of the most ineffective forms of aggression, vulnerable on at least four fronts:

The free-trade market has ways of finding new sources of supply or new conduits for old ones. Someone, somewhere, will always strike a bargain, undermining the embargo.

Sanctions are notoriously ineffective in securing real political change. The few successes almost always involve actual or implied military intervention. When such a threat is implausible, sanctions may do no more than entrench the targeted regime.

Sanctions, where implemented, tend to hurt the wrong people. Such bans are the ultimate form of economic warfare and to work fast require a total siege. Yet that action is indiscriminate and tends to harm those least able to guard against it—the poor.

Finally, sanctions develop a political life of their own, raising unrealistc expectations of success. When the embargoes fail, the result is disillusionment and bitterness.

THE IMPACT ON SOUTH AFRICA

A year after South Africa's state of emergency triggered a series of American, European Community and Commonwealth embargoes against that country, every one of the weaknesses of the strategy has been encountered. The economy, rather than suffering, is hesitantly improving. The internal anarchy of 1985-86 has died down. President P. W. Botha has survived a general election that marked a shift to the right. The government has shown its ability to continue to control dissent, if not suppress it. In short, another South African trauma seems to have passed.

Firms fleeing the moral complexities of South Africa include most of the giants of American world trade: General Motors, Ford, IBM, Exxon, Eastman Kodak, Honeywell, General Electric, Coca-Cola and, most recently, Citicorp. Most have defied U.S. lobbyists and avoided a scorched-earth policy. Instead, they have sold to other multinationals or, more often, to local management. Factories have continued to benefit from franchises, licenses and component supplies. But the new bosses, many from the rising Afrikaner bourgeoisie, have been freed from conscientious American monitoring and have rationalized and sold where the market is best.

The Johannesburg stock market has boomed as fleeing firms have sold off at bargain prices. As Tony Bloom of the Premier Group notes: "South African companies have been able to acquire technology, management skills, brand names and market share that would have taken years to build."

Trade sanctions have had scarcely greater impact than disinvestment. Restrictions on overseas purchases of coal and steel and certain metals could threaten the jobs of up to 40,000 Transvaal miners. A boycott of sugar and fruit industries, which employ up to 150,000 people, in theory also could cause immense hardship. Neither threat has yet materialized.

South Africa's economy certainly suffers from problems familiar in Africa—inflation, shortage of foreign credit, an excessive public sector. Unlike most African countries, however, it runs a big current-account surplus, manages its economy reasonably well and has renegotiated a phased repayment of its foreign debt. Both the gold price and the terms of trade have moved in its favor. And last year's collapse of the rand more than wiped out any effect sanctions may have had.

Inside South Africa, enthusiasm for economic sanctions is waning. Black leaders were only won over to the policy in a belief that it was the "final push" to topple apartheid. This toppling refuses to happen. Now, many nonwhite leaders are conceding that the prosanctions stance has done little except harm their own people. Even the Rev. Allan Boesak, the outspoken Colored (mixed race) leader, noting deepening misery in the depressed industrial areas of the Cape, is one of those now questioning sanctions.

Ford is a case in point. With an excellent record in South Africa but under "investor responsibility" pressure at home, that corporation was holding back on selling its 42 percent holding in Samcor for fear of the potential hardship on Mamelodi township near Pretoria, where many of its workers live. The pressure, however, proved too much and Ford is departing.

One South African diplomat has reflected: "American liberals came to South Africa determined to refight the American Civil War. They fought well, but now they seem afraid they might lose and only want to scramble back home." To others, the saddest feature of the Americans' pullout is that the hesitant progress South African blacks are making arises from precisely the union and community institutions promoted by American companies. Ironically, South Africa has recently become one of capitalism's more credible shows. Now, that show is closing down.

(Simon Jenkins, a leading British commentator, visits South Africa often and has written widely on the impact of economic sanctions.)

CONGRATULATIONS TO ERLANGER, KY

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. BUNNING. Mr. Speaker, every year the Government Finance Officers Association of the United States and Canada awards the Certificate of Achievement for Excellence in financial reporting.

This year that certificate has been awarded to a city in my congressional district—the city of Erlanger, KY.

This award represents the highest form of recognition in the area of governmental accounting and financial reporting and its attainment represents a significant accomplishment.

When a certificate is awarded to a government, an award of financial reporting achievement is also given to the individuals who are primarily responsible for earning the certificate. The award of financial reporting achievement has been awarded to: Fred H. Thomas, mayor of the city of Erlanger; Mary Golatzki, city finance director; Terry Sapp, city administrator and Fred Beck a CPA with Rankin, Rankin & Co. in Erlanger.

I want to take this opportunity to publicly congratulate these people and the city of Erlanger, KY. Perhaps some of the people in this Chamber could take a lesson from you in financial responsibility.

A VETERAN'S LAMENT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. DORNAN of California. Mr. Speaker, as a veteran and a member of the Veterans Affairs Committee I have always supported keeping faith with our vets. We must never cut the benefits promised these men and women who have honorably served their country. I appreciate the great sacrifices veterans have made for our country and will continue to fight for fair benefits and programs. We simply should not balance the budget on the backs of our veterans or at the cost of our national security. However, there is a great deal of apprehension among the veterans that Congress is "chipping away" at the hard-earned benefits of the military retiree and veterans in general.

Mr. Speaker, I recently received a poem written by W. Happy Blake, USN, retired, which poignantly relates the very real concerns of many veterans. I encourage my colleagues to reflect upon the sincere expression of sentiment embodied in the verses.

DECEIVED BY OUR OWN

In the Military we served, for a very long time
As Protectors, of the great land;
Benefits promised us, by our Government
At the time, seems mighty grand.

We served our years, for a pension,
Through the grime and terror of Wars,
Some of us, who were lucky came home,
Leaving others on far distant shores.

We asked that our Government now keep their word,
To give that, which we have earned,
Respect and treatment and medical care
BUT—their "backs" to us, they've turned.

They cut our C.O.L.A. and benefits,
With excuses you won't believe,
The promises they made, and would give to us,
Were "lies", so we've been deceived.

They still keep cutting us, at every chance,
And when we ask they "why",
They send us a letter in "double talk",
And lie—and lie—and lie.

They have lied to we "retirees",
Who have served our country well,
Paying us back, by raising their own pay,
Telling retirees—to-go-to-hell.

They tell us this and tell us that,
To confuse the issues well,
When we interpet their letter right,
It simply means "go to hell".

Big Business and Unions donate "cash",
This puts them first in line,
Constituents writing to give them their views,
Is just a waste of time.

They're just for themselves, and what they can get,
Especially their pensions and pay,
They vote by "party" and what "donors want",
And "not"—their constituents way.

Elections we know, will soon be here,
They'll be asking for support, you'll note,
So we millions of "vets" will go to the polls,
But—they damn sure should not get our vote!

WAGE GAP SHIFTS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. MILLER of California. Mr. Speaker, a recent report issued by the U.S. Bureau of the Census tells us that the wage gap between men and women is finally beginning to shrink. What the report doesn't mention, however, is that the wage gap is narrowing at the same time that real wages and living standards are on a downward curve. What looks like good news for women workers is partly the result of bad economic news for men.

Between 1979 and 1986, the average earnings for full-time women workers, as a percentage of men's wages, increased from 62 percent to 69 percent. The Census Bureau attributes this change to the growth of women in traditionally male occupations such as law, medicine, and the computer sciences.

However, during this same period, largely as a result of deindustrialization, men's real earnings have decreased by 2 percent, while the earnings of women, adjusted for inflation, have increased by nearly 4 percent. According to a briefing issued this week by the National Committee on Pay Equity and the Institute for Women's Policy Research, over 25 percent of the improvement in women's earnings is due to the fall in men's real wages.

While the report credits the growth of women in nontraditional occupations as largely responsible for reducing wage disparities between men and women, it should not be overlooked that women continue to be occupationally segregated, and that in some cases, this segregation has increased. For example, women now make up 82 percent of all elementary school teachers compared to 61 percent in 1979; 82.4 percent of miscellaneous clerical occupations versus 62.9 percent in 1979; and 93 percent of bookkeepers compared to a 1979 level of 88.1 percent.

According to the Census Bureau, 35 to 40 percent of the wage gap cannot be explained by educational differences or number of years in the labor market. Sex discrimination, usually in the form of occupational segregation, continues to drag women's wages down. The economic story hasn't changed: Women working in men's jobs earn more, while men working in women's jobs earn less.

We have reason to rejoice at the overall improvement of women's economic status. But we cannot overlook the fact that this progress is clouded by declining living standards and continued occupational segregation.

TRIBUTE TO REV. DR. FRANKLIN L. HENLEY

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. GEKAS. Mr. Speaker, a giant of the intercommunity of the city of Harrisburg, PA, the Reverend Doctor Franklin L. Henley passed away last week. The time I spent with him to preserve the Opportunities Industrialization Center in our community was but a comparative split second of the total human effort that he expended on the greater Harrisburg citizenry, but it did give me a personal dimension of his eagerness to serve.

Mr. Speaker, I would like to enter into the CONGRESSIONAL RECORD an editorial which appeared today in the Harrisburg Patriot about the life of Rev. Dr. Franklin L. Henley.

[From the Harrisburg Patriot, Oct. 14, 1987]

A GIANT PASSES: REVEREND HENLEY A PIONEER FOR RACIAL JUSTICE

Harrisburg and Central Pennsylvania have lost one of their noblest spirts. The Rev. Dr. Franklin L. Henley, pastor of the city's St. Paul's Baptist Church, died last Friday at 78.

Rev. Henley's contribution to this community is incalculable. His efforts and influence touched and improved the lives of thousands of people—most without them being aware of it—and his impact will continue long after his death.

His parish, in truth, was the entire city and Rev. Henley's day-to-day involvement in its life was extraordinary for its breadth, compassion and sense of justice.

But what stood him apart from other illustrious citizens of Harrisburg was that he was the first in its history to make the city look at itself in a mirror. He was the first to make the city see the ugliness of its treatment of blacks and the unofficial but very effective segregation and racial discrimination that was palpably evident even into the 1960s.

It took remarkable courage to confront the white power structure. It took an even greater sense of the justice and nobility of his cause to weather the bigotry and racial hatred triggered by Rev. Henley's insistence that this city do what was right and fulfill the promises of equality for all people on which this nation was founded and fought a bloody civil war to uphold.

Though Harrisburg still has work to do to achieve equality and harmony between the races, Rev. Henley's brave leadership largely triumphed in tearing down racial barriers and discrimination that had stood for generations. In doing so, he not only helped to bring many blacks into the mainstream of Harrisburg life, he freed the city from its small-mindedness and racial insensitivity.

State Revenue Secretary Barton Fields, friend, neighbor and admirer of Rev. Henley said it best, saying "he was a person who built bridges between the haves and the have-nots, the black and the white, the young and the old. He tried to be a healer.

No community ever has enough healers. It certainly cannot replace Rev. Henley, who did so much to close the wounds of racial injustice in Harrisburg and to foster a community in which everyone is included and no one is left out. He left us a legacy of justice, compassion, courage and understanding that we honor as we try to emulate and build up its promise of a better life for all.

A CONGRESSIONAL SALUTE TO ROBERT WAESTMAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a man considered to be one of the leading attorneys in the city of Long Beach, CA, Robert Waestman. Robert will be honored Wednesday, October 21, 1987, at the Hyatt Regency Hotel, Long Beach, CA, by the Saint Anthony High School Foundation.

Robert Waestman is a native of Long Beach. While at Saint Anthony High School, Robert first expressed a desire to become a lawyer. With the educational background afforded him by his parents, Robert became determined to pursue his dream and prepare himself for his career. Robert also credits the Brothers of the Holy Cross, the Immaculate Heart Sisters, and the instructors at Saint Anthony for a solid background geared to future success. He graduated top in his class in high school and carried those honors with him during his studies at Stanford University, Loyola University School of Law, and the University of Southern California Graduate School of Business. Upon graduation, Robert was sworn in to serve the legal profession in the areas of estate planning, probate, and business law.

His success is founded on his insightful ability to satisfy the needs of those who ask for his counseling and assistance. Over the years, his brilliant mind has brought him increased fame, as he is very visible in public life. Robert's name has long been associated with worthy community projects. In 1973 he became one of the founders of the Saint Anthony's High School Foundation, serving since that time as president of the board of directors. In 1982, he was sworn in as president of the Stanford Club in Long Beach, eventually adding to his affiliations his role as president of the Long Beach Bar Association and president of the Virginia Country Club. He is also dedicated to his community and to the quality of education. His outstanding work as president of the Saint Anthony's High School Foundation includes the development of annual giving projects which create funds for capital improvements at Saint Anthony; the establishment of an alumni newsletter with circulation of 6,000 graduates; the organization of the development department on the school's campus, and the initiation of the annual "Hall of Fame" celebration.

Robert is also an exceptional family man, who has been married to his wife, Lorraine for 20 years. His religious convictions and exemplary lifestyle serve as a role model for his two children, Rey and Renae, and for the current students who depend on his dedication in assisting them in their education.

Mr. Speaker, as you can see, Robert Waestman is an outstanding individual who exemplifies all that many in our society strive to be. His dedication to his wife and children, and to his community has helped make his community a beautiful place in which to live and work. My wife, Lee, joins me in congratulating Robert on all his acheivements. We wish him, and his wife Lorraine, and their two children, Rey and Renae, happiness and all the best in the years ahead.

THREE GOOD REASONS TO OPPOSE UNWISE MAIL ORDER TAX BILL

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Ms. SNOWE. Mr. Speaker, the October 6, 1987, Wall Street Journal contained an editorial opposing H.R. 1242, the Interstate Sales Tax Collection Act of 1987. The provisions of this legislation would require mail order companies to collect State sales and use taxes on all of their transactions.

The editorial opposes this bill for several reasons. First, with 45 State sales taxes and more than 7,000 municipal taxes currently on the books, requiring mail order firms to properly administer and collect all of these taxes places an unreasonable burden on these companies, and could cause them significant economic damage.

Second, this legislation seeks to directly overturn a 1967 Supreme Court decision that ruled it was unconstitutional for States to levy State sales taxes on out-of-State firms, if the retailer's only presence in the State was advertising through the U.S. Postal Service.

Third, by requiring that Internal Revenue Service to share State sales tax data with State tax administrators, the fundamental confidentiality of Federal tax returns would be jeopardized.

I have included the editorial in the RECORD for the review of my colleagues in the House. For my part, I am opposed to the Interstate Sales Tax Collection Act of 1987, and hope that after reading the editorial and examining H.R. 1242 my fellow Members will join me in opposition to this legislation.

[From the Wall Street Journal, Oct. 6, 1987]

MAIL-ORDER GRINCH

With fewer than 70 shopping days till Christmas, millions of Americans are avoiding long lines, bad weather and crowded parking lots by doing some or all of their Christmas shopping by mail. Many people find mail order more convenient and sometimes cheaper, since state sales taxes aren't charged if the recipient is out-of-state. But if Rep. Byron Drogan (D., N.D.) has his way, mail-order firms will have to collect sales taxes on all their transactions. The House Ways and Means Committee will vote on his bill next month. If it passes it will be just in time to give consumers an unwelcome holiday present.

Mail-order and direct-marketing sales are booming. Interstate sales top $100 billion a year and represent as much as 14% of all retail business.

Rep. Dorgan's bill would cost mail-order consumers up to $1.5 billion. Several business groups support the measure; they argue that the companies that send tax-free merchandise through the mails are unfair competition for local retailers. Mail-order firms respond that the Dorgan bill would impose enormous compliance costs.

L.L. Bean, a catalog store in Freeport, Maine, claims that just printing the different tax rates and exemptions in its catalog would cost $10 million a year. Studies indicate it costs direct marketers three to 10 times as much money to collect sales taxes as it does for retail companies. The 45 states and 7,000 localities with sales taxes have never agreed on a coordinated plan of collection, so the only way to enforce payment of mail-order taxes is to allow dozens of different auditors to inspect catalog companies' books.

In 1967, the Supreme Court ruled that states would violate the Constitution's commerce clause if they levied a sales tax on out-of-state retailers that had no presence in the state beyond advertising. Since the Constitution gives Congress the power to regulate interstate commerce, Rep. Dorgan wants Congress to define what a minimum

business presence in a state is in a way that allows out-of-state sellers to be taxed.

But even if that argument is upheld by the Supreme Court, taxing mail-order firms may also violate the due-process clause of the 14th Amendment because the firms being taxed won't benefit from state government activities. The Treasury Department is concerned about the bill because it would require the Internal Revenue Service to share sales-tax data filed by merchants with state tax collectors, thus inviting public suspicion about the confidentiality of federal tax returns.

Retail merchants that back the Dorgan bill, such as J.C. Penney, are correct in saying that mail-order companies are at a competitive advantage in not having to charge sales taxes, which can range as high as 9%. But that isn't an argument for creating an enforcement nightmare that could drive some mail-order merchants out of business. It is an argument for states to consider reducing any sales taxes that are so high that they induce people to shop out-of-state for goods.

In Dr. Seuss's tale, "How the Grinch Stole Christmas," a dour figure swept down on Whoville and made off with all of the Christmas presents in the town. But, in the true spirit of the season, the inhabitants celebrated anyway. Christmas would also still be the same if Rep. Dorgan's bill passes, but that is no reason to make consumer goods more expensive for people by chasing their dollars across state lines and slapping a constitutionally dubious tax on them.

THE HIGH PRICE OF DEFENSE

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. FEIGHAN. Mr. Speaker, on July 29 and August 2–5, a series of articles by John S. Long appeared in the Cleveland Plain Dealer entitled, "The High Price of Defense." Mr. Long's excellent investigative reporting provided an eye-opening account of the misuse of taxpayers' money and points to the need for long overdue reform.

As reported in the Plain Dealer:

LEGAL FEES

Defense contractors accused of criminal fraud but not convicted have been permitted to bill the Federal Government for millions of dollars in legal fees and have also been allowed to add an additional fee for corporate profits; these fees are charged as indirect costs in the companies' overhead accounts and amount to tens of millions of dollars.

COST OF DOING BUSINESS

Defense contractors' prices are raised to unrealistic levels, and are included as the "costs of doing business." The Government pays for all the costs the company incurs selling the weapons, the company's research and development and manufacturing, and then guarantees the company a profit. Even when companies use Government buildings, funds, and equipment, the design plans become property of the defense contractor.

CONTRACTOR-PENTAGON COLLUSION

Vague cost estimates and collusion between the Pentagon and defense contractors could make it very difficult to crack down on alleged abuses.

Because some Pentagon officials feel that defense projects and new technology are so important to national security they are willing to overlook or ignore infractions.

Many of the weapons systems produced don't work, yet they are rarely canceled; payment for these systems is made 2 days to 1 week after the bill is submitted, even though the government's prompt payment act requires the United States to pay bills as close as possible to 30 days after the billing. Early payment means loss of interest payments that could have been accrued on that money.

CORPORATE WELFARE

From one-half to nearly all of the salaries of the defense contractors' top executives—$500,000 to $1,000,000 annual income—is paid by the taxpayer. In addition, special savings accounts and generous pension programs are paid for by the Government. Bonuses to top executives are included in the cost of programs and help to drive up the costs of future defense projects. Benefits plus extras are paid on the basis of percentage of business done with the Government.

Some corporations have come to rely solely on the Government as a customer, and although the Government has helped some companies financially, difficult times could be ahead due to the flattening out of defense spending.

Defense contractors are allowed to charge the Federal Government the cost of State and local taxes, then deduct the amount, paid by the Federal Government, on their Federal income tax statements. This allows the corporation to operate in a tax free environment.

PROBLEMS IN ENFORCEMENT

The Defense Contract Audit Agency [DCAA] can only point out improper charges, not stop them. They are often refused access to company documents, and even when they do find questionable charges, military watchdogs are left to challenge them, something they rarely do.

While the Pentagon provides contractors with unlimited funds, the Justice Department conducts "scant" investigations due to limited funds (Gramm-Rudman). A Justice Department source criticized Congress for not providing his Department with enough resources to adequately handle major cases against the defense corporations.

I have submitted the first article of the series and I commend it to your attention:

[From the Cleveland Plain Dealer, July 29, 1987]

DEFENSE CONTRACTORS BILL U.S. FOR LEGAL FEES

(By John S. Long)

Defense contractors who are accused of criminal fraud but not convicted have been permitted to bill the federal government for millions of dollars in legal fees and have also been allowed to add an additional fee for corporate profit, The Plain Dealer has learned.

The reimbursements of defense contractor legal fees in criminal cases have been going on for years because of a federal acquisition regulation that has been a secret to most people outside of the defense industry.

Because of the large number of defense fraud cases in recent years, millions of dollars have been paid for legal defense of contractors, while the Justice Department itself has conducted bare-bones investigations into contractor fraud because of limited funds.

While the government's investigators are strapped for funds, the Pentagon is providing contractors with unlimited funds for their defense, as long as the contractor avoids a guilty verdict.

"They've cut back so much on us, we're practically counting paper clips" said one Justice Department official disgusted with the practice of subsidizing the defense contractors' legal defense funds. "A year ago during Gramm-Rudman everything was frozen. We had no money for travel, no money to conduct certain litigation, we even ran out of money for supplies. Things are now getting a little better," he added.

In one instance General Dynamics Corp. billed the government $21 million, plus an additional amount for corporate jury investigation in New Haven, Conn.

The legal fees were charged to the government as indirect costs in the companies' overhead accounts. Like other overhead account items permitted under the government contract regulations, a percentage is added to the fees for corporate profit.

The investigation concerned allegations of defrauding the government on a contract for the Triden submarine, according to sources on the congressional subcommittee on oversight and investigations headed by Rep. John Dingell, D-Mich.

The government recently dropped two additional criminal fraud cases against General Dynamics and congressional sources said that as a result taxpayers will be paying tens of millions of dollars in legal fees for the nation's top defense contractor.

In one investigation that lasted three years and was dropped by the Justice Department last month, General Dynamics and several company officials were indicted for defrauding the government of $3 million on a contract for a prototype of the Sergeant York air defense weapon.

If congressional estimates are accurate on the amount the defense contractor could bill the government for its legal fees, the profit General Dynamics would make on such a billing would nearly exceed the alleged $3 million in overcharges that prompted the criminal investigation.

The congressional sources have said General Dynamics would be refunded their legal defense costs, plus a profit, through contracts the company's Pomona division has with the Navy. Why the funds are being reimbursed through a Navy contract, when the investigation centered on an Army program could not be explained.

A General Dynamics spokesman told The Plain Dealer earlier this month that the company had not determined the amount of its legal fees.

In another case, the Justice Department last year decided not to indict Pratt & Whitney Group for allegedly overcharging the government by $22 million on contracts at its West Palm Beach government products division. Congressional sources estimate the government could end up paying millions of dollars in Pratt & Whitney legal fees in that case.

"We won't get into the nitty-gritty of the fees, but it is nowhere near millions of dollars," said Bob Carroll, a Pratt & Whitney spokesman. "As of this time the government has not paid for any legal expenses associated with the grand jury investigation. If, at a later date, these expenses are deemed ap-

propriate we will file for reimbursement in accordance with government regulations."

TRW Inc., the Lyndhurst-based defense contractor, is under criminal investigation in four states * * *. TRW has a defense fund set up for these cases and that if the company does not plead or is not found guilty in any of them it will pass to the taxpayers its legal fees and a sizable profit for the company.

TRW spokesman Robert Lundy said yesterday the company had no comment on the government reimbursing defense contractors for legal fees in criminal cases.

"We don't discuss provisions of that sort whether we might or might not have them," said Lundy of a special account set aside for legal fees related to criminal investigations of the company.

When contacted during the last two weeks by The Plain Dealer, numerous congressional watchdogs on defense spending said they were shocked to learn these companies could bill the government for legal fees in criminal cases, and they were amazed that the companies could tack on a corporate profit margin to the fees.

Rep. Patricia Schroeder, D-Colo. and Sen. David Pryor, D-Ark., likened the practice to corporate welfare.

"What?" said Dingell when told of the practice in an interview last week.

The reimbursements issue will also be on the agenda for a hearing scheduled for tomorrow on why the Justice Department dropped its criminal cases against General Dynamics and Pratt & Whitney, his staff said.

"Something is very wrong with this system," said Dingell subcommittee staff member Peter Stockton.

Senate Judiciary Committee staff member Sam Gerdano said, "Reimbursement for legal fees in criminal cases is completely unprecedented.

"This thing is open-ended; it also allows them (General Dynamics) to enjoy a profit above and beyond the legal fees. There is no precedent for this. John DeLorean and Ray Donovan (former Reagan administration Secretary of Labor) racked up hefty legal fees, but none of these people are eligible to have the government pay them and they were acquitted."

"It looks like the inmates have taken over the asylum," added Gerdano.

Another Justice Department source said that while he disagreed with the policy of reimbursing defense contractors, he also criticized Congress for not providing his department with enough resources to adequately handle major cases against the defense giants.

"DEMOCRATS' TAX DILEMMA"

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. DUNCAN. Mr. Speaker, I thought the attached editorial, which appeared in the October 12 Knoxville News-Sentinel, would be of interest to my colleagues in the House:

DEMOCRATS' TAX DILEMMA

Just as the Democratic Party is becoming more successful than ever at thwarting President Reagan's policies—as in the struggle over the Supreme Court—thoughtful Democrats are growing more nervous about their chances of recapturing the White House. Their party's dilemma: All too often its congressional leaders are pursuing policies that its presidential candidates would rather not talk about, such as tax hikes.

The Democratic members of the chief tax-writing committee in the House of Representatives recently agreed to $6.3 billion in higher taxes for 1988. Their package includes an extension of the 3 percent tax on telephone service, which was originally passed as a "temporary" measure. Like almost any other sales tax, this one hits low-income and middle-income citizens harder: The richer you are, the lower your telephone bill is in proportion to your total income.

The tax also raises the operating costs of any business that uses telephones—stimulating higher prices for a broad range of goods and services. With many consumers seeing their phone bills soaring thanks to the break-up of Ma Bell's benevolent monopoly, this is hardly the time for a permanent federal surcharge.

But the telephone tax is only the beginning. The Democrats on the House Ways and Means Committee want another $6 billion in tax hikes beyond the specific onces they have already accepted. Understandably, they are finding it difficult to agree on just which taxes to increase.

Ironically, not one penny in higher taxes is needed to trim the federal deficit. Thanks to income-tax reform and economic growth, federal revenues are now rising faster than expenses. The deficit is already shrinking, and it will keep doing so if Congress can simply refrain from piling on new spending commitments.

Unfortunately, the special interests that Congress usually obeys are determined to prevent that. If the Democrats want to prove that they have learned from the painful lessons of 1980 and 1984, this time they will resist.

HONORING THE PLEDGE TO THE ACADEMY CLASSES OF 1977 AND 1978

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. DORNAN of California. Mr. Speaker, this afternoon I introduced legislation that would revise section 1652 of title 38 to restore eligibility for chapter 34 education benefits to all service academy graduates who had contracted with the armed services when the old GI bill was still in effect. The classes of 1977 and 1978 were inadvertently excluded from eligibility even though they had committed to 7 years of active duty prior to the December 31, 1976, deadline.

As a result of an oversight, the 1976 legislation that repealed the old GI bill created an inequity by failing to specifically address the issue of academy members who had already obligated themselves to active duty upon graduation. Academy cadets and midshipmen incur this obligation when they start their third academic year. Academy graduates have always been considered as eligible for these benefits. It is not the time served at the academies that qualified the graduates for the GI bill, but rather the active duty performed following graduation. Given the obligation incurred by enrolling in their third academic year, these cadets and midshipmen should have been included in the "grandfather clause" of the 1976 legislation. The clear intent of the 94th Congress was that all those who signed contracts prior to December 31, 1976, with the expectation of the GI bill were to be covered by those benefits.

Mr. Speaker, since the intent of Congress was clearly to protect the existing benefits of those presently in, or committed to the armed services, the academy classes of 1977 and 1978 should clearly be included and I ask all our colleagues to help rectify this inequity and cosponsor this necessary and long overdue legislation.

TRAGEDY RESULTS WHEN CHILDREN LEFT AT HOME ALONE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. MILLER of California. Mr. Speaker, on Monday, October 12, two 6-year-old children, Jermaine James and Amanda Croson, left in the care of an 8-year-old babysitter, died in an apartment fire in Reston, VA—another tragic result of insufficient child care options for families.

Today, the tragedy intensified when the Washington Post learned that these children had been left at home alone because of condominium rules that prohibited family day care businesses from operating on the premises. Mrs. James, the mother of the two children who died, had closed her day care business only weeks before because of a fear of eviction. As a result, she found work outside the home and left her children inadequately supervised.

As the Post reported, these deaths are tragic evidence of a growing problem of children being left at home alone because their parents could not find or afford child care in their communities. In the past year alone, Fairfax County Department of Social Services had 217 substantiated cases of children who had been left at home unattended.

The situation will only worsen as the number of working families continue to overwhelm an already overburdened child care system, even in wealthy Fairfax County, where great strides have been made in expanding school age child care programs in 64 schools. Still, more than 800 children are on the waiting list for those programs. The two elementary schools attended by Jermaine and Amanda had no afterschool programs at all. In Reston alone, it has been estimated that there are still 5,000 children in need of child care who are competing for 453 available slots.

I urge my colleagues to read the Washington Post articles that describe yet another tragic consequence of our neglect of families' unrelenting need for child care assistance. Families should not have to choose between their children's safety and the economic security of their families. Yet more and more families will be forced to make this choice unless both the public and private sectors collaborate in making child care a priority.

[From the Washington Post, Oct. 13, 1987]

TWO 6-YEAR-OLDS, TRAPPED IN VA. APARTMENT FIRE, DIE—8-YEAR-OLD RESTON BABY SITTER ESCAPES

(By Patricia Davis)

Two 6-year-old children died yesterday after they were found, one atop the other, by the front door of a locked and burning apartment in Reston, Fairfax County fire officials said.

Jermaine James, who lived in the apartment, and Amanda L. Croson, a friend from the neighborhood, were pronounced dead at Reston Hospital Center of injuries received in the 10:30 a.m. fire, officials said.

Investigators were still trying late yesterday to determine the cause of the fire, which gutted the third-floor condominium apartment at 11633 Stoneview Sq. in the Shadowood subdivision, causing an estimated $150,000 in damages. Criminal charges were possible, according to sources.

The sources said that Jermaine's 8-year-old sister, Tina, was babysitting with him yesterday morning and that Amanda had stopped by to play. After the fire began, Tina ran from the apartment and the door locked behind her, they said.

"She was yelling and crying," said Melanie Beale, 16, a neighbor who said she saw Tina running outside. "She said her brother was in the house."

A maintenance worker with a pass key unsuccessfully tried to open the front door of the apartment, and two other workers made rescue attempts from the other side of the building, but the fire was already roaring, according to officials with the Shadowood Condominium Association.

"It was totally engulfed in flames," said Sharon Balz, 46, another neighbor. "There were flames shooting out of the windows."

Firefighters arrived within minutes after receiving the 10:31 a.m. call and broke down the apartment's front door, county Fire and Rescue Department spokeswoman Pam Weiger said. "Right inside, on top of one another, were the two kids," she said. Firefighters administered cardiopulmonary resuscitation.

Officials at the condominium association office said that the James family has been renting the unit since December.

Sandra James, the mother of Tina and Jermaine, was working at a local motel when the fire occurred, one source said. Neighbors said the father, Larry James, is employed as a painter.

Larry James went to the charred apartment yesterday afternoon and bolted up the stairs. Minutes later, crumpled over, he was escorted away by another man in painter's overalls.

Condominium officials said that Amanda Croson lived with her mother, also named Amanda, at 11621 Stoneview Sq., and that Croson has owned the unit since 1979.

Arrangements were being made yesterday for a counselor to help the maintenance workers and another employee distraught over the children's deaths, said Lou Goddard, an official on the condominium's board of directors. A fire official said a psychologist will be available to help the firefighters deal with the deaths, the fourth and fifth fire fatalities in the county this year.

Yesterday's blaze was not the first major fire on Stoneview Square. In February 1986, firefighters rescued four screaming children who had been left unattended in an apartment that caught fire at 11655 Stoneview Sq. All four children survived.

Outside the apartment where Jermaine James had lived, Maggie Thompson, 6, was coping yesterday with the loss of Amanda Croson, her best friend. "Well, you see, we always used to play together. When we played, we had more fun. The funnest was when we played with Play-Doh," said Maggie, her mother at her side. "But now that this happened . . . , I don't think I have any best friend."

[From the Washington Post, Oct. 14, 1987]

RESTON CONDO DAY CARE BAN CITED IN 2 CHILDREN'S FIRE DEATHS

(By Patricia Davis and Sandra Evans)

Sandra James, whose 6 year-old son and a friend died in a fire at her Reston apartment Monday while she was at work, had only recently taken the part-time job after she learned that the child care she had provided in her home was prohibited under condominium rules, neighbors said yesterday.

"I feel so guilty I could die," Jerris Davis, one of the neighbors, said yesterday. "I [had] said: 'Sandra, I don't want to say anything that will make you upset, but if they see you baby-sitting they're going to make you move.'"

Fire officials said yesterday that the fire that killed Jermaine James and Amanda L. Croson, both age 6, was accidental. Investigators were still sifting through the rubble at the 11633 Stoneview Sq. apartment at Shadowood Condominiums in the effort to determine the cause. No charges have been filed.

Jermaine's 8-year-old sister Tina had been left to supervise him and escaped the fire unharmed, sources said.

The Croson family could not be reached yesterday for comment. According to friends, Larry Barber, a painter, was the father of Sandra James' two children, and he could not be reached yesterday.

James, 25, who returned to her gutted third-floor apartment briefly yesterday, declined to discuss the events preceding the fire, and it was not known what efforts she may have made to find someone to care for her son and daughter while she was at work.

However, local officials and child care advocates said yesterday that the deaths are tragic evidence of a growing problem of children being left alone to care for themselves, often because their working parents cannot afford child care.

Davis and Shannon Hancock, who live in the apartment below James, said yesterday that they noticed recently that Sandra James was taking care of Jermaine and Tina as well as several other children. Worried that she would get evicted, they said, they told her about the condomimium's prohibition.

"When I told Sandra this, she looked really stricken. She said, "I didn't, know there was a problem,'" said Davis.

Davis and Hancock said the issue came to a head during a bitter condominimum association meeting in February, during which another resident was ordered to stop providing home day care services. Neighbors said they believed that James has stopped providing child care in her home.

The issue has been the subject of litigation in Fairfax and Montgomery countries. In both cases, day care providers lost their attempts to get a judge to overrule condomimium bylaws against their operations. The Fairfax case is under appeal.

On Sept. 26, James took the part-time housekeeping job at the Comfort Inn in Herndon, said general manager Diane Edwards. During her short time on the job, Edwards said, James has been an "excellent" worker who often talked about her two children.

"I think it's terrible," Hancock said of the condominium's rule prohibiting day care. "I feel that if she had been up there baby-sitting . . . those kids would be alive."

While condominium officials sympathized yesterday, they said they have to protect the rights of residents in the other 449 units.

Day care services "impact on the common elements," said Carol Bauer, assistant community manager.

"We don't allow businesses in here," said Lou Goddard, vice president of the condominium association. ". . . We're not singling out day care, we're singling out businesses. Period."

Goddard was busy yesterday setting up funds for the families of the victims.

I don't like having a bunch of kids living next door to me, but they've got to be somewhere," said Mike Herr, who lives next door to the James apartment and manages the Kinney shoe store in Herndon. "Obviously, if someone would have been home watching those kids, two wouldn't be dead and the place wouldn't be burned down."

Although Herr purchased his condominium only two months ago, he said he had noticed 8-year-old Tina James letting herself and her brother in after school with a key.

"A lot of our time is spent on this type of problem," said Tom Hamblen, a supervisor for child protective services in Fairfax County's Department of Social Services. The county had 217 substantiated cases of children who did not have what was considered proper supervision in the past fiscal year, and there are probably many instances that go unreported, Hamblen said.

The agency has established unofficial guidelines that children age 6 and younger should not be left alone, children 7 to 9 should not be alone for extended periods, and baby sitters should be at least 12 to care for children 4 or older.

A recent study found that of 7,200 Reston children between 5 and 14, about 5,000 need child care, but there were only 453 slots available at private day care centers and at school-based programs. It was unknown how many care for themselves.

Nationally, a Census Bureau survey conducted in 1984 and 1985 found that 488,000 children aged 5 to 14, or about 2.7 percent of that age group, cared for themselves when their parents worked.

The county and the state have programs to subsidize child care for low-income families, but these have long waiting lists. Fairfax County spends about $2 million a year on about 900 full-time day care slots at 20 facilities.

Also, the county runs before- and after-school programs for kindergarten to sixth grade. With 2,200 slots at 64 elementary schools in the county, more than 800 children are on the waiting list, according to the Fairfax Office for Children. While full fees for both before- and after-school care reach $173 a month, at the lowest income level the fee is as low as $3.50 a month.

The schools that Jermaine James and Amanda Croson attended, Terraset and Navy Elementary, respectively, are not among those that have the school-based program, officials said. Even where the program exists, it does not operate on some school holidays, such as Monday's Columbus Day break.

Two years ago the state legislature started a $1.5 million program for subsidizing home day care services for some low-income families; the money was gone quickly.

James A. Payne, chairman of the State Board of Social Services, wrote to local social service agencies in September, asking them to push for more funding and saying that day care services otherwise would have to end for some of Virginia's neediest families.

"Many families affected will have to resort to total welfare dependency . . . or face the choice of leaving their young children unsupervised or in substandard care," he said.

A CONGRESSIONAL SALUTE TO MIA WELLS BEGLINGER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a woman who has reached a position of city-wide acclaim, Mia Wells Beglinger. Mrs. Beglinger will be honored Wednesday, October 21, 1987, at the Hyatt Regency Hotel in Long Beach, by the St. Anthony High School Foundation.

Mia Wells Beglinger is renowned as one of the greatest civic workers in Long Beach, CA. Her contributions can be seen in her 17-year dedication as the alumni director of St. Anthony High School. She has been the prime mover in maintaining the alumni data of over 10,000 graduates and in assisting them with reunions. Her enthusiasm for a cause or a need has spurred many to cooperate in civic activities. Mia's untiring drive for supporting community projects has ranked her among the most celebrated volunteers in the city.

Mia Wells was born in Los Angeles, CA, where she was brought up in a strong patriotic environment, dedicated to the American way of life. Mia's father was a military man and was transferred to many bases throughout the United States. As a result, Mia attended 14 elementary schools, and while her family lived in Long Beach, CA, she attended and graduated from St. Anthony High School in 1940. Upon graduation, Mia attended Long Beach City College, UCLA, and the Otis Art Institute in LA where she excelled in fashion design, art, and public relations.

During high school and college, Mia became a professional high-fashion model and worked for Blue Book Modeling Agency and for Adrian, an academy award winner. After a much publicized courtship, Mia married Robert F. Beglinger, a young Air Force cadet. Mia and Robert spent many years at a succession of Air Force bases, but returned to Long Beach for the birth of their daughter Melissa. Eventually Mia and Robert were permanently transferred to Long Beach allowing Melissa an opportunity to attend and graduate from her mother's alma mater.

Mia Wells Beglinger is affliated with the St. Anthony's High School Foundation Board of Trustees, Friends of Cedar House, the Jonathan Jaques Children's Cancer Center, Las Damas de la Plaza of Long Beach Community Hospital, the Long Beach Historical Society, the Willmore City Heritage and Historical Society, the Fine Arts Affiliates for C.S.U.L.B., the Dramatic Allied Arts Guild, the LBCLO Diamond Terrace, the Long Beach Youth Home Boosters, the Los Angeles Museum of Contemporary Art, the Long Beach Chamber of Commerce, the Immaculate Heart of Mary, Board, the Archdiocesan Council of Catholic Women, the Carmelite Auxiliary, and many other religious and art-related organizations.

Mr. Speaker, Mia Wells Beglinger is considered a driving force and a powerful lady in her community. Her family has given endless years to the civic and religious activities sponsored by Long Beach. As you can see, Mia has done much to help make her community a beautiful place in which to live and work. My wife, Lee, joins me in congratulating Mia on all her accomplishments. We wish her, and her husband, Robert, and their daughter, Melissa, happiness and all the best in the years ahead.

FULL SUPPORT FOR H.R. 940

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. GALLO. Mr. Speaker, as a cosponsor of H.R. 940, the Plastic Pollution Research and Control Act, which passed the House overwhelmingly yesterday, 386 to 14, I am very pleased to learn that Members of this body from all parts of the country share my commitment to the protection of our shoreline and the preservation of the world's greatest natural resource—our oceans.

Ironically, I was in the air over our east coast at the time of the vote yesterday, returning from a Presidential trip to my district in New Jersey. From the air, it is easy to see how massive the task of tracking ocean-going vessels is. This realization makes our efforts to outlaw all forms of garbage dumping, as contained in H.R. 940, all the more critical. If we eliminate the exceptions to the rule, we can make enforcement easier.

Yesterday's vote also confirms my belief that all Americans care a great deal about the protection of our shorelines, regardless of whether they live in shore-front communities or thousands of miles inland.

My constituents in Essex, Morris, Sussex, and Warren Counties have been telling me in no uncertain terms that they want the Federal Government to do everything possible to protect our shoreline from further contamination.

I have heard from constitutents at town meetings, in letters and through personal visits to my Washington office.

As I travel around my district, this is still one of the major topics being discussed. People want action, not talk.

I have heard from constituents who say their vacations were ruined this year. They feel they are playing Russian roulette with their vacations at the New Jersey shore because of these incidents. The best assurance we can provide to vacationers is to make all dumping illegal. Without enactment of H.R. 940, we face an enforcement nightmare.

Our shoreline is too important to all of us to allow this to continue.

As a member of the Public Works and Transportation Committee, which has been conducting its own investigation of this summer's pollution, I am confident that we can turn this situation around by next summer with legislation such as H.R. 940 and with a determined effort by all Americans who value their shoreline not to allow ourselves to get dumped on again.

TRIBUTE TO FOREST HAYS, JR.

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. DARDEN. Mr. Speaker, the people who live in the extreme northwest corner of Georgia have lost an able and dedicated State legislator with the recent death of Representative Forest Hays, Jr. At the same time, the handicapped people of our State and Nation have lost one of the most eloquent champions of their rights. Many others of us have lost a beloved personal friend.

I first became acquainted with Forest Hays when we served together in the Georgia House of Representatives during the early 1980's. He had been a member of that body since 1970, representing the people of the Chattanooga Valley in Walker and Dade Counties. Those constituents rewarded him for his dedication and hard work by returning him to the General Assembly for nine terms. He served on the Committees on Defense and Veterans' Affairs, State Institutions and Property, and Game, Fish and Recreation.

For the past 4 years, I had been Forest Hays' Congressman. He always was ready and eager to help me gauge the needs of northwest Georgia and its people, so that I could represent those people here in Washington.

He was 59 when he died, and although had been confined to a wheelchair for most of his life as the result of injuries suffered in World War II, Forest Hays was a man of great spirit and vigor. His physical condition made him especially interested in the issue of rights for the handicapped; he campaigned long and hard to assure handicapped Georgians of ready access to all kinds of public facilities, as well as to the education and jobs necessary to maintain an active role in society. He was a charter member of the National Wheelchair Bowling Association and had coached the Chattanooga Big Wheels wheelchair basketball team.

He visited me here in Washington on several occasions. I remember that he was particularly impressed, when visiting the floor of this Chamber, by the facilities here which allow handicapped Americans access to the seat of their Government.

Mr. Speaker, I ask my colleagues to join me in extending our sympathies to Forest Hays'

wife, Mimi, as well as to his daughter Susan, his son Terry and other members of the family.

DON GRIFFIN—80 YEARS YOUNG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. LANTOS. Mr. Speaker, Sir Richard Steele, the 18th century English gentleman, noted that "Age in a virtuous person * * * carries an authority which makes it preferable to all the pleasure of youth." With the passage of each year, I have increasingly come to welcome such reassuring observations.

Today, however, I would like to pay tribute to an individual who certainly confirms that the authority and wisdom which comes with age can indeed be a pleasure. Mr. Speaker, I wish to pay tribute to my distinguished friend Don Griffin who will celebrate his 80th birthday this Saturday on October 17.

Few individuals have led such colorful and varied lives as has Don Griffin. He was born in the Excelsior District of San Francisco in 1907, learned both Italian and English in the first grade, and said "Bon Giorno" before he said anything else. Don was one of the first students of St. Paul's Parochial School, where his classmates included Bishop Donahue and former Congressman Jack Shelley.

Always industrious, he worked as a newspaper boy and as a delivery boy for the local fishmonger and vegetable salesman. He left school to become an apprentice in a blacksmith shop, and later he became a sheet metal mechanic. That love of sheet metal work has endured for over 60 years. In 1960, he founded his own business, Griffin Metals Products.

Don completed his college education, and went on to become a teacher and curriculum coordinator in the San Francisco and Berkeley school systems. During World War II, he ran the Merchant Seaman's Training School in San Francisco. He wrote the San Francisco Municipal Railway training manuals in the 1940's, and was responsible for the physical arrangements for the United Nations founding conference in San Francisco's War Memorial Opera House in 1945.

Don's community service has been extensive—a leader in Boy Scouting for 30 years, an active member of the Millbrae Lions Club, president of the Millbrae Historical Society, and a member of the board of the San Mateo County Historical Society.

He has also been a committed father of 5, grandfather of 6, and husband. As a "political" husband, he has been most supportive of his wife Mary, a past member of the Millbrae City council, past Mayor of Millbrae, and currently a San Mateo County Supervisor.

Mr. Speaker, I ask my colleagues to join me in wishing Don Griffin a most happy 80th birthday.

CALL FOR REUNIFICATION OF MICHELSON'S AND OTHER DIVIDED SPOUSES

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. MACK. Mr. Speaker, today I am introducing legislation calling attention to a serious Soviet human rights issue that remains largely unsolved—the problem of divided spouses.

Many of my colleagues in the House of Representatives are familiar with a unique and very special American living in southwest Florida named Anatoly Michelson. Anatoly is a 69-year-old former Soviet citizen who has been separated from his wife and daughter for over 30 years. Since arriving in the United States, Anatoly has made repeated attempts to secure the release of his family from the Soviet Union, including a grandson he has never seen.

Unfortunately, Anatoly is just one of a number of United States citizens whose spouses remain in the Soviet Union, having been repeatedly refused exit visas to emigrate. As a signatory to the Helsinki accords, the Soviet Union has agreed to provisions in the act which states that "The participating States will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family, with special attention being given to requests of an urgent character—such as requests submitted by persons who are ill or old."

There has been progress in the resolution of divided spouse cases are relations between the United States and the Soviet Union have improved and American diplomats have given a higher priority to addressing these cases. However, I am disturbed that the Soviet leadership has taken action on relatively recent cases while ignoring or repeatedly refusing to resolve long-standing cases.

This resolution calls upon the Soviet Union to grant exit visas for all those who wish to join spouses in the United States. Furthermore, it requests that the Soviets give special attention to quickly resolving the long-standing cases, such as the Michelson separation.

This fall, President Reagan is preparing for a summit to successfully conclude an arms reduction agreement with the Soviets. The approaching summit provides Congress an auspicious opportunity to further underscore its commitment to human and family rights. I urge my colleagues in the House to give their enthusiastic support to this important resolution.

A CONGRESSIONAL SALUTE TO WILLIAM MAIS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a strong parental leader and great family man, William Mais. Mr. Mais will be honored Wednesday, October 21, 1987, at the Hyatt Regency Hotel by the Saint Anthony High School Foundation.

William Mais was born February 9, 1931, in San Pedro, CA. He grew up in San Pedro and spent his entire educational career at Saint Anthony. William enrolled in first grade in Saint Anthony in 1937, and graduated 12 years later in 1949, making him a member of the Twelve Year Club. During this time at Saint Anthony, William earned varsity letters in football, basketball, and baseball. Before he finished his athletic career at Saint Anthony, William was made first string All-CIF and All-City in football. His excellence in football earned him a football and scholastic scholarship to the University of California, Berkeley. William was one of seven athletes to be offered a scholarship to Berkeley, and in 1951 the Berkeley football team participated in the Rose Bowl. On December 29, 1951, William married Jane Kier, his Saint Anthony High School sweetheart.

William answered the call of his country as he joined the U.S. Army where he served as lieutenant in the Anti-Aircraft Command with assignments in El Paso, TX, and Limestone, ME. Upon returning to civilian life, William used his extensive business administration background to obtain a position with IBM Corp.

William started with IBM in Long Beach in 1956 where he created a job for himself in the computer marketing department. In 31 years with IBM, he held numerous marketing management positions within the company, including a rise from the business of marketing computers to having a significant hand in the marketing of two of IMB's most important software products; IMS, a data base product, and the "PROFS" system. He has also received IBM's highest marketing award, the Award of Excellence.

William Mais is also an outstanding family man, dedicated to the traditions of family ties. William and his wife, Jane, have raised seven children and have been blessed with nine grandchildren. Most of his children are also Saint Anthony graduates. He has also been recognized over the years for his active participation on the Saints Booster Club and the Parents Association. This year he was asked to join the Saint Anthony's High School Foundation Board of Directors, a step up from his position as a Member of the Board of Trustees.

Mr. Speaker, William Mais is not only an outstanding citizen in his community, he is also a model for those who wish to succeed in society. Through his commitments to his community, and his family, William is a living tribute to the power of dedication. My wife, Lee, joins me in congratulating William on his many great accomplishments. We wish him and his wife, Jane, and his children and grandchildren, happiness and all the best in the years ahead.

A SALUTE TO MRS. EDWARDINA RIGGANS SENIOR CITIZEN HALL OF FAME INDUCTEE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. STOKES. Mr. Speaker, the Ohio Senior Citizens Hall of Fame was established to fulfill a twofold purpose: to emphasize the vital role played by men and women 60 years of age or older in their communities, State and Nation and to promote the productivity and enjoyment that should be a part of every person's retirement years.

This year nine individuals join the distinguished ranks of the Senior Citizens Hall of Fame. The induction ceremony will take place on October 29, 1987, in Columbus, OH. I am pleased to report that Mrs. Edwardina Riggans who resides in my congressional district will be inducted into the Hall of Fame. On behalf of the residents of the 21st Congressional District of Ohio, I salute Mrs. Riggans on this auspicious occasion.

Mr. Speaker, Mrs. Riggans plays a vital role in the Cleveland community. In 1934, Mrs. Riggans began her long and active participation in community-based groups when she joined the Wellman Club. This group, largely through Mrs. Riggans' dedication, has taken the lead in increasing the political awareness of our citizens and voter participation.

In the early 1960's, Mrs. Riggans joined the Karamu Golden Agers group. Over the years, Karamu has provided needed social, cultural, and educational programs for our community's seniors. In 1969, Mrs. Riggans utilized her strength and influence amongst senior citizens in the city of Cleveland to help deliver the votes of the elderly to my brother, Carl Stokes, on his successful bid for mayor of the city of Cleveland.

She is also reponsible for the formation of seniors of Ohio. The coalition was formed to boost senior citizen participation in Government affairs and to provide a mechanism by which the concerns of our Nation's elderly could be expressed to Government officials. Under her leadership, this organization grew to, at one time, a membership of over 3,000.

In 1984, Mrs. Riggans represented the 21st Congressional District as my senior citizen intern. She did an excellent job of representing the concerns of seniors throughout the Nation.

Mr. Speaker, it is an honor to salute Mrs. Riggans on this occasion. She is a remarkable individual and an inspiration to us all.

TRIBUTE TO MRS. MARIE KAPTEIN

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. BORSKI. Mr. Speaker, I rise today to pay tribute to Mrs. Marie Kaptein, a resident of northeast Philadelphia and the Outstanding Handicapped Federal Employee of the Year for 1987.

Marie has been blind since age 10, when she was struck by an automobile. She is an employee of the Naval Publications and Forms Center, where she has logged 14 years of meritorious service.

Marie proves that she does not consider herself handicapped by consistently out-producing her coworkers. Before winning this year, she was nominated for Outstanding Handicapped Federal Employee in 1977 and 1983.

In 1977, she became the first woman ever awarded the prestigious Meritorious Civilian Service Award. Marie has received Outstanding Service Awards from 1982 through 1986, and in February of this year was selected as the Inventory Control Department's Employee of the Quarter.

Marie has been married to her husband, Henry, for 30 years and is a lifelong resident of Philadelphia. She attended St. Boniface Parochial School and Hallahan High School for Girls instead of the school for the blind. She is active in the Catholic Guide for the Blind, the Third Order of St. Dominic and St. Williams Roman Catholic Church. Marie's advocacy of leader dogs for the blind is evident in her devotion to her constant companion and seeing-eye dog, Sandy.

I join the Naval Publications Center, the U.S. Government, and all Federal employees in paying tribute to this courageous woman.

TRIBUTE TO RAY J. MADDEN

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. RODINO. Mr. Speaker, I want to thank the gentleman from Indiana for organizing this special order in tribute to our late friend and former colleague Ray Madden.

Ray's recent death, at the age of 95, ended a lifetime of devotion to public service on all levels of government. Beginning his career as a municipal judge, Ray went on to serve as comptroller of the city of Gary and then spent 4 years as treasurer of Lake County in Indiana.

In 1943, Ray first entered the House of Representatives. For the next 34 years, he ably represented Indiana's First District which is located in the northeast corner of the State. Ray's commitment to his constituents and service to the people of Indiana was an inspiration to us all.

Ray also served his country with great honor and distinction. Throughout his long career in the House, Ray earned the respect and admiration of his colleagues. He was a man of unyielding integrity and generous with both his time and expertise.

Ray exhibited his tireless energy and dedication as the chairman of the Democratic Steering Committee and as a member of the Naval Affairs and Education and Labor Committees. In 1973, Ray became chairman of the Rules Committee where he served effectively and provided leadership based on experience and fairness.

It was a great personal privilege to call Ray Madden my friend. For those of us who worked with him and for the Nation he served so well, we have lost both a friend and a dedicated public servant.

BAYPATH'S 10TH ANNIVERSARY

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. ATKINS. Mr. Speaker, I would like to call to my colleagues' attention a very special anniversary which is being celebrated in my district.

Baypath Senior Citizen Services is celebrating the 10th anniversary of its founding. Baypath was incorporated in 1977 to serve the needs of elderly residents in the 14-town South Middlesex area of Massachusetts. Over the past decade Baypath has been a pioneer in promoting the health, well-being, and dignity of older individuals by broadening their living alternatives through a continuum of community services.

In every one of those 10 years, Baypath responded to the increased needs of an elderly population which was steadily growing, both in size and in age. Baypath now serves 6,750 clients and provides a wide range of services including case management, homemaker and chore services, transportation, home delivered meals, companionship services, respite care, and nursing services. From a staff of 18, Baypath has expanded so that today it has a staff of 95, including volunteers. This year Baypath's budget is almost $2.4 million, with funding coming from Federal, State, and local sources.

Baypath's anniversary has a special meaning for me. I remember chairing the first meeting held in Marlboro to focus on the needs of the senior citizens in the area. That meeting, held in 1976 when I represented the district in the State senate, was sponsored by the Marlboro Senior Citizen Center who had rented a room in the Sons of Italy Hall. We were not prepared for the large crowd that attended and had to move across the street to the Episcopal Church. That outpouring of people showed us that there were tremendous hidden problems and neglected needs facing the elderly, and their families, in our community. Baypath was created the following year in response and recognition of those needs. Today, Baypath's challenges are more difficult than at any time in the past 10 years, but, I am confident that this extraordinary organization is capable of surpassing the accomplishments of the prior decade.

A CONGRESSIONAL SALUTE TO EVELYN DUPONT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. ANDERSON. Mr. Speaker, it is indeed my honor to rise today to pay tribute to Evelyn duPont, the founder of California Pools for the Handicapped (CPH). Evelyn's great accom-

plishment will be recognized at a dinner in her honor October 22, 1987.

Evelyn duPont is a living example of courage to those whose handicap she understands very well. Evelyn was once an international swimming star, however, her promising career was stiffled when she was struck down with polio. After a long bout with the crippling disease, and after a vigorous physical therapy program, she was able to walk again. Evelyn vowed to seek a way to help others like herself and to always enjoy her first love, swimming.

Rarely does an individual commit themself to a cause with the determination that Evelyn duPont did. She is an inspiration to all humanity, to those who have ever had reason to wonder if they could achieve something despite physical impairment. Evelyn had a dream. A dream that would accommodate handicapped children, adults and senior citizens with a pool facility. This goal started in her own home, as she used her own pool as a recreational center for handicapped children.

Soon the dream grew, and soon her own pool became inadequate as more and more children participated in the program. At this time, Evelyn initiated California Pools for the Handicapped, an organization dedicated to handicapped persons by using a time-proven method of physical therapy with swimming. In April 1963 her dream became reality as the CPH was incorporated under California State law. The site was selected, the terms for purchase formalized and in May 1968, the pool opened its doors to a very deserving group of individuals.

Mr. Speaker, as you can see, Evelyn duPont's personal commitment will stand in homage to her integrity and the determination she displayed in achieving her goal. The time and energy she spent in the pursuit of her dream will serve as a tribute to all humanity. Evelyn duPont has done so much for the handicapped, and through her work and completion of the California Pools for the Handicapped, Evelyn has helped make her community a beautiful place to live and work. My wife, Lee, joins me in congratulating Evelyn on her great accomplishment. We wish her and her children and grandchildren, happiness and all the best in the years ahead.

U.S. HUMAN RIGHTS POLICY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. RICHARDSON. Mr. Speaker, since the days when I served in the State Department I have been convinced that it is in the United States self-interest to accord a high priority to human rights in the daily conduct of our foreign policy. With that in mind I have been delighted to read the text of a speech delivered in Spanish in Mexico City on May 26 by George Lister, Senior Policy Adviser in the Department's Bureau of Human Rights and Humanitarian Affairs. The speech describes the origins of our current human rights policy some 10 or 12 years ago and reviews the record of achievement since that time. I find the speech accurate, informative and refreshingly candid, and I believe it provides eloquent testimony on the wisdom of having a separate Bureau for Human Rights in the Department.

I commend the English text of Mr. Lister's speech to my colleagues' attention:

U.S. HUMAN RIGHTS POLICY: ORIGINS AND IMPLEMENTATION

(Address by George Lister)

I welcome the opportunity to talk with you today, not for just the usual polite reasons of responding to an invitation but mainly because I feel the subject of our meeting, U.S. human rights policy, is very important. And certainly it is one which is close to my heart. The subject is also highly controversial and does not lend itself to easy generalizations, and since I am going to speak for only about 30 minutes, I suggest you consider these opening remarks as merely an introduction to our discussion. I anticipate that following my presentation, you will ask many questions, and I hope we can have a candid, vigorous exchange of views, which I am prepared to continue for as long as you wish.

ORIGINS OF CURRENT POLICY

First, how and when did our human rights policy begin? At the outset I should emphasize that my government does not perceive itself as the original defender of human rights. There were articulate supporters of human rights long before Columbus came to this hemisphere. And, of course, there have been many important human rights issues throughout history, e.g., slavery was a major cause of our Civil War over a century ago. So nothing that I am going to say here should be construed as implying that we have a monopoly in the defense of human rights. We do not.

However, there did come a time when human rights advocates both inside and outside our government decided that human rights should be accorded a higher priority in the conduct of our foreign policy. This movement began to take shape some years prior to the Carter Administration. A leading role in this campaign was played by several Members of Congress from both major parties, Republicans and Democrats, and particularly by Congressman Don Fraser of Minnesota, who was Chairman of the Subcommittee on International Organizations and Movements. In the latter half of 1973, and in early 1974, Fraser's subcommittee held a series of public hearings on U.S. foreign policy and human rights, with witnesses including U.S. Government officials, jurists, scholars, representatives of nongovernmental organizations, etc. These hearings were followed by a subcommittee report on the subject in March 1974, including 29 specific recommendations. The first recommendation stated that: "The Department of State should treat human rights factors as a regular part of U.S. foreign policy decision-making." The report itself began with the following sentence: "The human rights factor is not accorded the high priority it deserves in our country's foreign policy."

The Fraser subcommittee report achieved considerable impact in our government, and some of the 29 recommendations were implemented fairly soon. One of these called for the appointment of a human rights officer in each of the State Department's five geographic bureaus: for Europe, Latin America, Africa, the Near East, and East Asia. I was serving in our Latin American bureau at the time and became the first human rights officer for that area.

So the human rights cause was gaining impetus before Jimmy Carter won the 1976 elections. But, of course, soon after President Carter assumed office, human rights did begin to receive considerably more attention in the daily implementation of our foreign policy. A separate Bureau of Human Rights and Humanitarian Affairs was created with a new Assistant Secretary. I will discuss how that policy was implemented, and with what results, in a few minutes, but first let me say a few words about what happened when the Reagan Administration replaced the Carter Administration, in early 1981.

At that time I recall there were some, in and out of government, who assumed that our human rights policy was finished. This assumption prevailed both among strong advocates of human rights and those who felt human rights considerations should have no place in our foreign policy. Some even expected the human rights bureau to be abolished. But fortunately, it soon became apparent that our human rights policy had been institutionalized, that it had strong bipartisan support in Congress, that human rights legislation passed in previous years was still in force, that our annual human rights reports to Congress were still required by law, etc. In short, our human rights policy continued. Today our human rights bureau is alive and well, with an able and committed Assistant Secretary, Richard Schifter, who has dedicated his work in the Department to the memory of his parents, who perished in the Holocaust.

MISCONCEPTIONS

So much for the origins of our current human rights policy. Now I will discuss briefly a few of the misconceptions which have arisen regarding that policy.

First, we are not seeking to impose our moral standards on other countries. The rights we are discussing here are recognized, at least with lip service, throughout the world. Indeed, they are included in the Universal Declaration of Human Rights, which was adopted by the General Assembly of the United Nations on December 10, 1948. I am sure many of you are familiar with the declaration, but I have copies here in case you would like to take them. So, to repeat, our human rights policy is based on internationally accepted norms.

Second, our human rights policy does not—repeat, not—reflect any assumptions of U.S. moral superiority. Those of you who have been to my country know very well that we have many human rights problems at home, including, for example, race discrimination, sex discrimination, violations of minimum wage laws, etc. We have achieved much progress with some of these problems in recent years, but they still persist and are a frequent subject of criticism in our free press. So the United States is no exception. We all have human rights problems.

Third, we are also aware that many other nations are less fortunate than the United States. Due to accidents of history, geography, climate, etc., there are countries with appalling problems of extreme poverty, illiteracy, overpopulation, terrorism, etc., which we have been favored enough by fate to escape. As a result, other peoples sometimes see us as insanely lucky. For example, having served in Poland, I know that many people there consider the United States to be uniquely fortunate. They see themselves as situated between Germany and Russia,

while we are sheltered by two oceans. There is a Polish saying that "God protects little babies, drunkards, and the United States of America."

Fourth, contrary to what some people assume, we do not intend our human rights policy to be intervention. We would like to be on friendly terms with all governments, and, everything else being equal, we prefer to avoid political confrontations, strained relations, dramatic headlines reporting diplomatic crises, etc. On the other hand, of course, we do have a right to decide to which countries we will give our economic and military assistance. And when another government pursues a policy of murder and torture of its citizens, we have a right to disassociate ourselves publicly from that policy and to withhold our aid.

RESULTS

Now what have been some of the results of our human rights policy over the past 10 years or so? Here I will attempt a very rough and incomplete balance sheet. On the minus side there have been strains in our relations with some governments which otherwise would have been friendly allies but which resented our criticism of their widespread human rights violations. And sometimes that resentment has been shared by important areas of public opinion in those countries. For example, I recall accompanying the then-Assistant Secretary for Inter-American Affairs, Terry Todman, on a visit to Argentina in 1977. In Buenos Aires one evening, we were invited to supper by a group of local Argentine businessmen, some of whom were extremely critical of our human rights policy as they understood it. They deeply resented the State Department's criticism of human rights violations in Argentina, and they accused us of naively underestimating the danger of a communist takeover. I felt their resentment was entirely understandable, although I did not agree with it. And that bad feeling certainly imposed a strain on our relations with Argentina. I will discuss some other costs to the United States later if you wish, but because of the shortness of time, I will pass on now to the plus side of this human rights balance sheet.

What have been some of the achievements of our human rights policy? Here I would say that, both as direct and indirect results of our efforts, there has been less torture in some countries, there have been fewer political murders, fewer "disappeareds," more names published of political prisoners being held, more prisoners actually released, states of siege lifted, censorship relaxed, more elections and more honest elections, and in Latin America the Inter-American Human Rights Commission has been invited to more countries, etc. I feel this is an impressive record and far outweighs the minus side of the balance sheet.

I hasten to add that I am not suggesting these advances in human rights are exclusively the result of our human rights policy. The main credit for this progress belongs to the citizens of those countries in which it took place. But I do maintain that the United States has made a major contribution to the progress, and I feel we should take quiet satisfaction in our record.

From the viewpoint of U.S. foreign policy, there is another very important benefit to be included on the plus side of the balance sheet. That is that our human rights policy has been welcomed by many key sectors of foreign public opinion which, in the past, have often been hostile to U.S. policies, at least as they understood them. Such groups include, for example, some democratic political parties, some labor unions, various religious organizations, many student bodies, many intellectual circles, etc. Our human rights policy has helped greatly in improving our relations with the democratic left, including Marxists who reject Leninism.

It is noteworthy that a number of other governments have now appointed officials to monitor human rights problems. The French Government is one of these. In Moscow an "Administration of Humanitarian and Cultural Affairs" has been created in the Ministry of Foreign Affairs. However, thus far it appears the main purpose of this new office is to counter foreign criticism of Soviet human rights abuses.

To sum up, I am convinced that our human rights policy over the past 10 years has not only helped the human rights cause in many areas of the world but has also been very much in the self-interest of the United States.

DIFFICULT QUESTIONS

Having said that, I emphasize immediately that I am not suggesting for a moment that, because we accord a high priority to human rights, our entire foreign policy automatically works well. Obviously not; our human rights policy provides no easy solutions to the complex and urgent problems which confront us daily and is in no way a guarantee against mistakes in judgment, faulty implementation, misinformation, etc. Moreover, many problems and questions arise in just trying to carry out our human rights policy. I will mention only a couple of these very briefly.

First of all, just how high a priority should human rights enjoy in our foreign policy? I think it is clear that, in the final analysis, our highest priority must go to the survival of the United Sates as a free and independent nation in a world which is often extremely dangerous. The application of these two priorities, survival and human rights, frequently involves difficult and complicated decisions.

Another difficult question concerns economic assistance. Should the United States cancel economic aid to a country with a poor human rights record if our calculations indicate that those who will suffer most from that decision will be the poorest sectors of that society? In such instances we can sometimes receive useful insights and advice from local religious representatives and those in a country who are in close touch with the needs of the local community.

CRITICISMS

Now what about some of the many criticisms of our human rights policy? One which I recall as fairly frequent during the early days, a dozen or so years ago, was that human rights advocates are "emotional" and that emotion has no place in serious foreign affairs. Well, I would say that emotion is fairly normal to the human race, and just about all of us become emotional for one reason or another—some of us about the stock market's Dow Jones average, for example, and others possibly about human rights. Obviously, emotion does not necessarily preclude common sense and good judgment. In any event, now that the novelty of our human rights policy has worn off, this is a criticism which is seldom heard these days.

Another criticism is that the application of our human rights policy is "inconsistent," that we do not respond consistently to human rights violations in one country and another. There might be more validity to that criticism if the protection of human rights were our only objective. But, as I mentioned earlier, human rights is only one very important consideration in our foreign policy. However, even if this were not so, even if human rights were the *only* consideration, experience indicates it would be unreasonable to expect complete consistency in the day-to-day conduct of our foreign affairs. There are over 160 countries in the world today. Our human rights policy cannot operate with computers. It is simply unrealistic to expect a large government bureaucracy to perform perfectly. Even championship football teams never play an absolutely perfect game. I would say, rather, that consistency is a goal for which we aim, and when some inconsistencies inevitably do occur, they do not invalidate the basic policy. In brief, I maintain that, while our human rights policy is far from perfect, it is both genuine and effective.

Still another criticism we hear is that we apply our human rights policy only to left-wing governments; never to right-wing dictatorships. This is a favorite theme of broadcasts from the Soviet Union and Cuba, which I read every day, and I find it highly significant that both Moscow and Havana devote much time and effort trying to prove that our human rights policy is simply capitalist propaganda, with a double standard. Obviously, the Leninists feel very threatened by our human rights efforts.

The truth is, of course, that we criticize human rights violations by both the right and the left. If you have any doubts on that score I invite you to read the latest issue of our annual human rights reports to Congress for the year 1986. I would be interested to know whether you can find any pattern of ideological discrimination in the reports on 167 countries we prepared last year.

On the same theme it is relevant to mention that we now commemorate Human Rights Day, December 10, with a ceremony in the White House, during which the President signs the Human Rights Day proclamation. Last year both President Reagan and Assistant Secretary Richard Schifter briefly reviewed the state of human rights worldwide, and their comments referred to repression not only in the Soviet Union, Cuba, Nicaragua, and Poland but also in South Africa, Chile, Paraguay, and Iran [see Special Report No. 164—"Reviewing the U.S. Commitment to Human Rights"]. I repeat, we criticize human rights violations by both the left and the right.

There is another important criticism from the political left, and not just the Leninists, which argues that one cannot really combat human injustice without replacing capitalism with socialism, that to work against torture, political murders, etc., is all very well, but basic human rights cannot be ensured without the establishment of socialism. I disagree, and I often recall another saying I learned in Poland many years ago. It goes like this: "What is the difference between capitalism and socialism? Capitalism is the exploitation of man by man, and socialism is vice versa." There is much truth in that bitter joke, and I think it is quite obvious by now that there can be ruthless oppression and exploitation with both economic systems. Neither capitalism nor socialism, in themselves, are a guarantee of human liberty. I personally feel that if there is one human right which is a key to all the others, it would be free speech. Free speech

is more revoluntionary than Marxism-Leninism.

ROLE PLAYED BY NONGOVERNMENTAL ORGANIZATIONS

Now before concluding, a few words on the very important role played by nongovernmental organizations involved with human rights work. Many of them perform valuable services in monitoring human rights issues, protecting human rights victims, helping refugees, etc. These are badly needed activities and represent a major contribution to the human rights cause. A good number of these groups are also occasional or frequent critics of the State Department's performance, and there is certainly nothing wrong with that when the criticism is reasonably accurate.

But having acknowledged the positive role they play, and having heard and read much of their comment, I also wish to voice one measured criticism of some of these groups. A good many organizations, such as Amnesty International, are quite willing to protest human rights violations across the political spectrum, from right to left. But it is discouraging to note how many other self-described human rights activists are motivated mainly by ideological prejudice. For example, it is remarkable that some of these people accuse the State Department of favoring rightwing dictatorships over communist regimes when they themselves do precisely the opposite. It is difficult to understand, for instance, how an organization allegedly covering human rights in Latin America can be highly vocal on problems in Chile and Paraguay but steadfastly refuse to say one word on violations in Cuba and will then accuse the State Department of applying a double standard.

In this connection I will conclude by recalling a vivid personal experience several years ago in one of our embassies in a foreign capital. I was talking with a woman whose husband had "disappeared," as they say, and she herself had good reason to fear for her own safety. She was discussing her plight with me while accompanied by her son of around 10 years of age. Toward the end of our meeting, she felt she had summoned up enough courage to venture outside once again, and she stood up to say goodbye. But then panic returned, and she decided to stay for just one more cigarette. When she tried to light up, her hands were trembling so much that I finally did it for her. And her small son's eyes never left me as he desperately tried to read in my face the chances for their survival. I think the question of whether that mother and son were in danger from a rightwing or leftwing regime is totally irrelevant.

A DISTINGUISHED SERVICE AWARD FOR A DISTINGUISHED CITIZEN, JERRALD H. REDEKER

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. VANDER JAGT. Mr. Speaker, it is with particular pride and privilege to bring to the attention of the Members of this great body the recent accomplishments of Jerrald Redeker, of Holland, MI. I say with "particular pride and privilege" because I count "Jerry" Redeker as a great friend and booster for a good number of years.

Jerrald Redeker has just received one of the most outstanding awards one can receive as he was presented with the 1987 Distinguished Service Award from the Holland Area Chamber of Commerce. I am very proud and happy for Jerry. But, to paraphrase that now famous television line "he achieved success the old fashion way, he earned it." And, as the Holland Sentinel newspaper editorial said, "When it comes to community service, Jerrald H. Redeker is at the top." The editorial concluded, "Redeker is deserving of the chamber's top award."

In extending my personal congratulations to an outstanding citizen, great community leader and wonderful friend, permit me to bring to my colleagues attention the following special editorial from the Holland Sentinel and a fine news article, both of October 7:

JERRALD REDEKER, DISTINGUISHED COMMUNITY SERVICE

When it comes to community service, Jerrald H. Redeker is at the top.

His selection as recipient of the 1987 Holland Area Chamber of Commerce Distinguished Service Award publicly recognizes the volunteer work he has done to benefit the Holland area.

Since arriving in Holland in 1974 to become president and later chairman of the board of Old Kent Bank, Redeker has been involved in countless civic, educational and church activities. Because of his leadership abilities, he has not only served on numerous committees but also has been asked to chair a project.

His latest endeavor, Window on the Waterfront, is a prime example. Redeker was determined the park would become reality.

Last March he challenged the community at Holland Area Chamber of Commerce Early Bird breakfast to raise $500,000 in eight weeks to beautify the waterfront behind Riverview Park. As chairman of Holland's Michigan Sesquicentennial committee, Redeker saw the project as a lasting memento to the state's 150th birthday. Dedication of the site is slated next month.

A Waupun, Wis., native, born Oct. 5, 1934, and a 1956 Hope College graduate, Redeker is another Holland resident always willing to contribute to his adopted community.

Redeker is deserving of the chamber's top award.

CHAMBER HONORS REDEKER WITH DISTINGUISHED SERVICE AWARD

(By Michael Lozon)

Lauded for his many years of service to the Holland community, Jerrald Redeker was presented with the 1987 Distinguished Service Award Tuesday night from the Holland Area Chamber of Commerce.

The award was presented for the fifth year during the chamber's annual banquet at the Holiday Inn in Holland. Redeker is chairman of the board and president of Old Kent Bank of Holland.

Presenting the award was William Sikkel, chairman of the award seclection committee and senior vice president of Haworth Inc.

"The 1987 recipient meets the criterial for the award and more. He is a man of high ideal who has served in many areas and in many ways," said Sikkel. "The community has grown under his leadership."

Sikkel noted Redeker's service to the community in a long list of affiliations. They include: the Holland Community Foundation, Holland Economic Development Corp., Holland Community Hospital board, Holland Rotary Club, Holland Area Junior Achievement, Holland, Area Youth for Christ, Board of Theological Education for the Reformed Church in America, Christ Memorial Church of Holland, and the chamber.

Redeker currently serves on the board of directors for the Pine Rest Foundation and the Lakeshore Health Maintenance Organization. In addition, he was awarded the distinguished alumni award from Hope College, and is listed in the Who's Who in Midwest directory for 1985, 1986 and 1987.

Redeker's most recent accomplishment, said Sikkel, was as chairman of the chamber's Holland Sesquicentennial Task Force, which raised funds for the Window on the Waterfront park.

The project budget was $480,000, but donations from the community ended up topping the $500,000 mark. The park—slated for dedication Nov. 7—is being constructed along a half-mile strip on the Macatawa River, from River Avenue to Columbia Avenue.

"It has really been an honor and a privilege to serve each of you in this capacity," said Redeker in accepting the award.

Besides the award, Redeker was treated to a surprise visit from his mother, Laura, who traveled from his hometown of Waupun, Wis., to attend the banquet.

He graduated from Hope College in 1956 with a bachelor's degree in business administration. He worked for Michigan Bell Telephone Co. and Old Kent Bank and Trust Co. before accepting a position as vice president of Metropolitan National Bank of Farmington in 1965.

In 1967, Redeker joined First State Bank of Charlevoix as vice president and later became its president and chief executive officer. He resigned that position in 1973 to become an agent for Farm Bureau Insurance Co. of Michigan.

Redeker joined Peoples Bank of Holland (now Old Kent Bank of Holland) as president and chief executive officer in 1974, and took on the additional responsibility as chairman of the board in 1979.

In addition to the DSA presentation, plaques were presented to retiring directors of the chamber board to recognize their years of service. They are: Andy Van Slot (1979-87), James Stonick (1983-87), Lyle Bezile (1984-87), Gail Hering (1984-87), Larry Van Dyke (1984-87) and Dave Swart (1984-87).

Remarks were also made by incoming board chairman David Lake, and outgoing chairman Joyce Korman, who was presented a plaque to recognize her service during 1986-87.

"I consider it a blessing to live and work in Holland, a privilege to be part of the Holland Area Chamber of Commerce, and an honor to have been chairperson for the past year," said Kortman.

The banquet socially marks the start of the chamber's new fiscal year.

BRIAN WILLSON

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mrs. BOXER. Mr. Speaker, I would like to call to the attention of my colleagues, the fol-

lowing articles which appeared in the September 2 and 3, 1987, editions of the San Francisco Examiner. These articles were written in response to the tragic accident in which Brian Willson, Vietnam veteran and activist for peace in Central America, lost his legs. In submitting these articles, I would like to point out that we are still awaiting a report from the Navy on this matter:

CONCORD

(By Rob Morse)

What was he doing on the tracks? That is the question you are likely to ask after seeing the photographs of Vietnam veteran Brian Willson lying grievously injured on the railroad tracks at the Concord Naval Weapons Station. He knelt down between the rails Tuesday morning and was run over by a train. You may say it quizzically, or maybe cynically, as if he ought to have known better: What was he doing on the tracks?

Willson was there to begin his second fast for peace in two years. The first one ended last September after 47 days on the U.S. Capitol steps. The fast that began Tuesday ended with a paramedic's IV on the tracks in Concord, after Willson was hit by a munitions train.

He was planning on going to jail and then going on a water diet for 40 days, "a substantial period of time for reflection," as he had put it earlier. He had not planned on being dismembered by a train. We have an even more substantial period for reflection.

Willson's friend and fellow Vietnam veteran John Skerce took some of the horrific photographs you see in this newspaper. He was there to deliver some film from an earlier trip to Nicaragua, during which he and Willson helped rebuild a village destroyed by the contras. Skerce, a freelancer with experience in Central America and Northern Ireland, shot 2½ rolls at Concord.

"They knew the risks involved," says Skerce of Willson and his two comrades who stood beside him as he knelt on the tracks. "They just had no expectation that they would be removed by a train. They expected that either the Marines or the CHP, with some degree of malevolence, mas o menos, would remove them. He expected to be arrested."

The art of nonviolent protest, as practiced by Willson and his fellow Veterans for Peace, is advanced. Their protests take place with dignity and thought, as Willson and Medal of Honor winner Charles Liteky demonstrated during last year's fast. Furthermore, they always tell the authorities what they plan to do. Last year they gave up everything but water to protest U.S. shipments of arms to the contras. They quit fasting when we took notice. They would have fasted as long as necessary.

On Tuesday, the protesters stood next to a banner with a quote from the Nuremberg Accords, which the U.S. signed at the end of the war with Nazi Germany: "Complicity in the commission of a crime against peace, a war crime or a crime against humanity is a crime under international law." Willson and company believe it. These are serious men who have seen combat and need see no more. On Tuesday they were met by lesser thinkers at the Concord weapons station.

According to photographer John Skerce, a Navy veteran of small boats in Vietnam, there were two men on the front of the train as it accelerated toward Willson, and they were yelling, "Whoo-oo, we're goin' through."

Afterward, a Navy spokesman said the train was going through at 5 mph, and described the two men on the front of the train as "observers." He also said the protesters might have jumped in front of the train at the last minute. Skerce's photographs show the veterans set up on the tracks long enough for speeches and the spelling of the word "Peace" in pebbles between the tracks, while Marines and the Highway Patrol stood by.

A video taken by one of the protesters, and aired on KRON-TV, showed a train accelerating toward Willson. Holly Rauen, Willson's wife, could be glimpsed running alongside, yelling for it to stop, but she fell behind as the train hit what appears to be about 20 mph. The train was coming around a bend, and John Skerce said it was hard to tell if it was accelerating or decelerating. Someone yelled "Jesus Christ!" A second or two later, the sound track of the video records a thump, screams, and the cry from Willson's 14-year-old son Gabriel Ortega, "You killed my father!"

As of this writing, nine hours after he was hit, Willson is still alive. His legs have been amputated, and he is in surgery with serious head injuries. His son Gabriel is traumatized.

What was he doing on the tracks? This is what Brian Willson wrote at the end of a piece in the Santa Cruz Sun last Thursday:

"For those participating in the Nuremberg Actions on the tracks at Concord, Calif., one truth seems clear: Once the train carrying the munitions moves past our human blockade, if it does, other human beings in other parts of the world will be killed and maimed. We are not worth more. They are not worth less. Let us commit to ourselves and the world that we will claim our dignity, self-respect and honor by resisting with our lives and dollars, no matter what it takes, any further policies designed to kill others in our name. This fast, this period of cleansing and deep discernment, will assist us in preparing for this journey of liberation."

Whatever you think of his cause or his methods, you have to admit that Brian Willson was on the tracks because he was serious. You know why he was there, and so did the authorities long before. The question really is: Why did someone aim and launch a loaded train at him?

MORE

(By Rob Morse)

A guy called up Wednesday to criticize my column. I had written about Brian Willson, the protester who was run over by a train at the Concord Naval Weapons Center. The guy said he had learned that you never sit in front of moving trains, as if that was some kind of great insight everyone had missed. I told him that the train wasn't moving. It had sat still for about 15 minutes and then started toward Willson, according to numerous eyewitnesses. The guy on the phone called me a pinko.

That's right. I'm a pinko because I believe our Navy, the folks who were brought to us by John Paul Jones, and now tool around with nuclear-tipped missiles, shouldn't drive trains at a fellow clearly marked with a banner sitting on the railroad tracks. I know normal red-blooded Americans make a point of aiming their cars at people they see sitting in the road. After all, those people should know better than sitting in the road. See where that gets you in court.

What I was really saying in Wednesday's column, in case anyone missed the point, was that what happened out at Concord Tuesday looked an awful lot like attempted murder. God willing, Willson will live. Representatives of the Navy say it was a tragic accident and no one was ordered to run Willson over. Of course not. Someone was probably ordered (or decided on his own) to scare Willson off the tracks, to play chicken with him, but he didn't move fast enough. That's the way it looked Tuesday.

Someone in authority at Concord will pay for this. I'm a Navy kid, and I know if the Navy hates one thing worse than losing a ship, it's a public relations disaster. Willson's group had been out at the weapons station every day, 12 hours a day, since June 12 in a spiritual vigil. We in the press didn't take notice until a two-car train with two government observers on the front took a run at Brian Willson and left him in several pieces. At a press conference after the accident Tuesday, the commander of the weapons station, Capt. Lonnie Cagle, looked sick, the way the man who skippered the ill-fated U.S.S. Stark in the Persian Gulf probably looked when he realized how badly things had gone down on his watch.

Worse yet. There is some question that the Navy may not have been forthcoming with medical aid after Willson was run over. According to several of the protesters, a Navy ambulance arrived within five or 10 minutes after Willson was hit, but the attendants only took his pulse and offered no other help. Maybe that's what lawyers would advise nowadays, I don't know. They refused to take him to the base medical clinic a half-mile away, according to these witnesses. Instead Willson had to wait about 40 minutes (by several estimates) for the county ambulance to arrive and take him to John Muir Hospital 10 miles away.

Photos of the scene show several Marines standing with arms folded while Willson's wife tries to staunch the flow of her husband's blood. She made a tourniquet for his severed leg from part of her dress and held it there until the county ambulance arrived while our military men watched and listened to her pleas.

You don't have to be a pinko to think something went very wrong out ther at Concord. That wasn't my Marine Corps of my Navy.

Brian Willson needs Type O-negative blood. If that is your blood type, contact the nearest Irwin Memorial Blood Bank and mention Willson's name. . . . Willson, who was a full-time peace activist, carried no health insurance. He will need financial help at some point, but his family is not sure how much as yet. More later on this. He is at John Muir Hospital in Walnut Creek.

TRIBUTE TO THE REVEREND DOCTOR WILLIAM P. DIGGS

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. TALLON. Mr. Speaker, I rise today to pay tribute to a dynamic leader from my district, a gifted orator, and a compassionate clergyman, the Reverend Doctor William P. Diggs. I am very proud and grateful to count him among my close and trusted friends. This month, Dr. Diggs celebrates his 25th anniver-

sary as pastor of the Trinity Baptist Church in my district in Florence.

Since coming to Florence 25 years ago, Dr. Diggs has made many significant contributions, not only to Trinity, but to the entire Pee Dee community as well, He has worked tirelessly to make life better for all of our citizens.

Dr. Diggs is a native South Carolinian. He is a graduate of Morehouse College. He holds a master of arts in sociology from Atlanta University, a master of divinity from Colgate-Rochester Divinity School and a doctor of ministry degree from McCormick Theological Seminary.

In addition to his earned degrees, Dr. Diggs is the recipient of several honorary degrees from institutions of higher learning across our State. He served as assistant professor of sociology and religion at Friendship, Benedict, and Morris Colleges for nearly 25 years. He is a member of the board of trustees of Friendship College, Morris College and a member of the board of directors of the Morehouse School of Religion.

As you have no doubt discerned, Dr. William P. Diggs is no ordinary citizen. He is well known and highly regarded by theologians, educators, and leaders all across the country. He is an outstanding educator and he has earned the respect and admiration of his fellow clergymen. Dr. Diggs is vice president at-large of the Congress of Christian Education for the Progressive National Baptist Convention and dean of the southern region. He is immediate past moderator of the Pee Dee Baptist Association.

Dr. Diggs has received countless awards and honors for meritorius service. He has shared his insightful wisdom, he has loaned his calm and reasoned voice to settle many a conflict and perhaps most importantly he has kept the faith. We have all benefited from his presence in our community. He has touched the lives of thousands through his religious and civic ministry.

As an elected official, I have often sought Dr. Diggs' guidance. He has been both a spiritual and political adviser. I am grateful for his abiding friendship and wise counsel.

We are indeed fortunate and blessed to have Dr. Diggs in our community. I am reminded of a verse by Josiah Holland which reads—

God give us men!
A time like this demands
Strong minds, great hearts, true faith, and ready hands;
Men whom the lust of office does not kill;
Whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie.

Mr. Speaker, Dr. Diggs embodies all of these characteristics. I rise today to thank him for his 25 years of dedicated and unselfish service to Trinity Baptist Church, the State of South Carolina and indeed the entire Nation.

TRIBUTE TO THE PEOPLE OF TAIWAN

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. YATRON. Mr. Speaker, I rise to pay tribute to the people of Taiwan on the occasion of the National Day of the Republic of China. October 10, 1987, marks their 76th National Day.

The story of Taiwan is indeed an incredible one. Over the last several decades Taiwan's free-market economy has been one of the fastest growing in the world. Its estimated per capita GNP of over $3,600 is the fourth highest in East Asia. The people of Taiwan have also established very high standards of health, education, and nutrition.

Clearly, the human progress on Taiwan has been termendous and is a testimony to a hard-working population who have overcome many hardships, imposing obstacles, and, of course, constant security threats, from the Communist Government in Beijing.

In the political realm it is most encouraging that Taiwanese authorities have lifted martial law, although some other important democratic reforms are still pending.

As chairman of the House Foreign Affairs Subcommittee on Human Rights and International Organizations, I have visited the Republic of China and can attest first hand to the miracle that has occurred. The people of Taiwan should be proud of their outstanding achievements. They can serve as an inspiration to us and to the rest of the world.

Let us use this occasion to recognize their accomplishments and to wish them the very best.

JACK E. SCHULTZ RETIRES

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. McEWEN. Mr. Speaker, distinguished colleagues, allow me to take this opportunity to share with you an important date—November 1, 1987—which marks the retirement of Mr. Jack E. Schultz from Fairfax Opportunities Unlimited, Inc. [FOU]. Mr. Schultz, a native of Clermont County, OH, will be returning to his home State after 15 years of dedicated service in the northern Virginia area.

Since 1981 Jack has been an employee at the Environmental Protection Agency's mail services and has also served FOU at the Pentagon Officers Club and their sheltered workshop, "The Op Shop." Mr. Speaker as you may be aware, the northern Virginia based FOU serves the emotionally, mentally, and physically disabled throughout this area employing over 450 people with 215 employees working for various agencies of the Federal Government.

Jack Schultz has proven himself to be a very dedicated, hardworking, and dependable employee. In addition to his fine works for Fairfax Opportunities Unlimited, Jack has been an outstanding member of his community who will be sorely missed.

I wish to use this opportunity to thank Mr. Schultz for his years of service for the Federal Government and to wish him the best of luck in a well-deserved retirement. Ohio—and the Cincinnati Reds—welcome Jack back where he will join his sister, Mrs. Patti N. Schuk, of Batavia.

Good luck, Jack. Best wishes. And many thanks.

THE 225TH ANNIVERSARY OF THE TOWN OF TEMPLETON, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. CONTE. Mr. Speaker, on Saturday of next week the town of Templeton, MA, will celebrate its 225th anniversary. I rise today not only to commemorate this historic occasion, but to share with my colleagues the rich and varied history created by the past and present population of Templeton. The history of Templeton weaves together an ambitious imagination with a respect for tradition. And, I know that many of you will recognize these elements as the heart and soul of the American town.

There are two stories that I would like to share with my colleagues. The first story is about a Templeton man of letters who drafted the first strategy for the use of land grants to endow State universities. Jonathan Baldwin Turner pursued his ideas and produced an American institution, the State university. I also want to share with my colleagues the story of the efforts expended by the people of Templeton to preserve their history and to designate Templeton Common and Baldwinville Village as historic districts.

In May 1850 Mr. Turner unveiled "A Plan for a State University for the Industrial Classes" that called for the endowment of a State university in Illinois from the receipt of public land sales. Working with the State Legislature in Illinois, where he had moved from Templeton to teach at Illinois College, Mr. Turner led the petition drive to the U.S. Congress calling for legislation that would enact his land grant proposal. In 1857 Congressman Justin Morrill of Vermont introduced such a bill, which was signed into law the following year and is not known as the Morrill Act.

I am in debt to Mr. Turner for his initiative and I continue to carry the flag that he stitched. The seeds sown by this Templeton native have blossomed in another town in my congressional district, Amherst, MA. Throughout 29 years in Congress, I have sought every opportunity to help the University of Massachusetts.

Furthermore, Mr. Speaker, the bond between Templeton and the university did not end with the ambitions of Mr. Turner. The first recipient of a Ph.D. from the University of Massachusetts was Templeton native Warren Elmer Hinds. And, as recently as 1962 the university joined Templeton in celebrating the town's 200th anniversary.

Mr. Speaker, it is a tribute to the town of Templeton to have sent forth such a distinguished son. Yet equally impressive to me is the respect and admiration held by the current residents of Templeton for the accomplishments and activities of former residents. In fact, this quality is what makes the 225th aniversary of Templeton so meaningful for both the residents and all those associated with Templeton.

This brings me to my second story, Mr. Speaker. In 1983 Templeton Common was placed on the National Register of Historic Places and in 1986 Baldwinville Village was added to the list. This distinction is the result of effort from the citizens of each of Templeton's four precincts—Baldwinville, Otter River, East Templeton, and Templeton Village. And I can't emphasize enough how important a concerted effort is to the building of a community.

Among many other memorials, monuments have been erected to the Templeton veterans of all four wars fought by American soldiers on foreign soil during this century. Templeton residents have always been appreciative of the experiences of veterans.

But perhaps the most remarkable tribute to the history of Templeton is the preservation of many of the homes and churches in the area. Five of Templeton's eight churches were built in the 19th century and today remain in fine condition. Also impressive is the preservation of the Gilbert House, the Millstone Farm, and the Parsonage of the First Church, to name a few of the more than 25 homes that surround the Common in Templeton. Each of these structures have been preserved because of the tireless commitment to history felt by the people of Templeton. And it is this commitment that earned the distinction from the National Registry of Historic Places.

Mr. Speaker, so often Americans are viewed as people driven by ideas for the future. Because of our Nation's rapid growth through numerous developmental stages, it is often thought that Americans forget about those who have fought the wars and built the homes before them. This is simply not true for the people of Templeton.

I want to take this opportunity to extend my congratulations to the people of Templeton. The occasion of the town's 225th anniversary is a time not only to commemorate the humble and magnanimous achievements of generations past, but to celebrate the wealth of potential and initiative that continues to drive the town. And believe me, Mr. Speaker, there is much to celebrate. Happy birthday, Templeton.

IN HONOR OF THE WOMEN'S DAY COMMITTEE OF ST. GREGORY THE GREAT CHURCH

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. MFUME. Mr. Speaker, the Women's Day Committee of St. Gregory the Great Church is celebrating is 15th anniversary this year. This committee is dedicated to serving the Church of St. Gregory the Great, its members, neighbors, and the community and I feel that 15 years of such service is truly an honorable accomplishment.

Each year, the Women's Day Committee has a special women's day celebration to give thanks. This year, there will be a special mass at 11:30 a.m. on Sunday, October 18 1987, and the theme this year is: "Fifteen Years—Working Together for the Glory of God."

The Women's Day Committee is also to be commended for their annual awarding of a scholarship to a high school student of the church who will be entering college.

Baltimore has benefited from the work of this committee and communities across the United States are blessed with organizations that resemble the Women's Day Committee of St. Gregory the Great Church. We should all take a moment to think of the great contribution organizations as such make toward the betterment of mankind.

COMMEMORATING DR. KENNY GUINN AS DISTINGUISHED MAN OF THE YEAR

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to a preeminent civic and community leader of southern Nevada, Dr. Kenny Guinn. On Sunday, November 15, the Nate Mack Las Vegas Lodge of B'nai B'rith will honor this exceptional Las Vegan as "Distinguished Man of the Year." He is truly deserving of this recognition.

Kenny Guinn has made extensive contributions to the community of southern Nevada. He has given tirelessly of his time and energy to promote the successful growth of Clark County and its citizens. I consider his friendship and long-time acquaintance a great honor.

During his tenure as superintendent of schools for the Clark County School District, Kenny led the county through a dynamic period of school growth with deftness, superior managerial skills and his characteristic sense of professionalism. As the result of his work, southern Nevadans point with pride to our outstanding school system.

In his current capacity as president of both Nevada Savings and Southwest Gas Corp., Kenny continues his commitment to providing for the finest in the quality of life in Clark County and in all of Nevada. The success of these institutions is evidence not only to the vitality of our community but to the exceptional abilities Kenny Guinn brings with his contributions.

Mr. Speaker, by any standard—be it community service, civic leadership, or professional contributions—Dr. Kenny Guinn represents the finest in southern Nevada's commitment to our greatest of many resources: the men, women and children of our State. I ask my colleagues to join me today in commending Dr. Kenny Guinn for his well-deserved recognition as "Distinguished Man of the Year."

NEW CONTRA AID REQUEST AT ODDS WITH NOBEL PEACE PRIZE

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. COLEMAN of Texas. Mr. Speaker, it is ironic that Secretary of State George Shultz should make a renewed request for military aid to the Contras on the same day that Costa Rican President Oscar Arias won the Nobel Peace Prize for his Central American peace plan signed in August.

Building on the breakthrough achieved by the previous plan achieved by President Reagan and Speaker of the House JIM WRIGHT, the Arias peace plan provides a workable framework for peace in Central America. Already we have seen a cease-fire between the Nicaraguan Government forces and the reopening of La Prensa and the Catholic radio station in Managua. This plan represents the beginning of the comprehensive regional solution to the crisis in Central America that we in the Congress and the administration have agreed is vital for a lasting, secure peace.

Will the administration give it the chance it deserves? Good-faith efforts are being made as we speak by the Government of Guatemala and the Guatemalan rebels; between El Salvadoran President Duarte and the El Salvadoran insurgents; and by other important first steps around the region.

The only lack of good faith, unfortunately, is coming from the administration. President Reagan has apparently endorsed the Arias plan, but we need consistency from the White House. Their policy seems more dependent on palace politics than on the needs of this Nation and the region itself.

Mr. Speaker, my colleagues and I support the promise of the Arias peace plan. It is time for the administration to support it, too, and to keep from waffling in response to each new attack on the peace process from the right wing inside and outside the administration.

LET US KEEP THE 1990 CENSUS ACCURATE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. LEVIN of Michigan. Mr. Speaker, as 1990 approaches, we look forward to yet another 200th celebration, the bicentennial of our census. However, if the Office of Management and Budget has its way and eliminates more than two dozen vitally important census questions relating to housing, energy and other essential programs, 1990 will not be a time to salute our progress. We will instead find ourselves lamenting a missed opportunity.

OMB says, "the 1990 census must meet a high standard for both quality and utility." I heartily agree, but how is this to be achieved if OMB backs away from several census areas

which require accurate information? By eliminating these questions which provide crucial information for federally aided programs, OMB is being penny wise and pound foolish. It is difficult for Congress and local government to make delicately balanced decisions concerning spending priorities if we are forced to use data which are decades old, or nonexistent.

It seems as though OMB is again caught up in games of reducing costs, while ignoring the entire issue of cost-effectiveness. Accurate information is something on which we cannot compromise.

IRAN: CONTAINING THE ZEALOTS

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. MAVROULES. Mr. Speaker, LES ASPIN gave a very important speech on the Persian Gulf yesterday to the National Women's Democratic Club. I would like to submit the entire text of the speech for the benefit of my colleagues who have a keen interest in this issue.

The speech follows:

IRAN: CONTAINING THE ZEALOTS

(By Les Aspin)

This is a town with a propensity for football metaphors. But sometimes we need to think chess. That's true when it comes to the Persian Gulf, for example. I'm afraid our Persian Gulf policy is suffering because of that propensity to think in football terms: pick a play; try it; see how far you get; then decide what you'll do on the next down. In chess, on the other hand, you need to think several moves ahead at a time. We aren't doing that.

My criticism is aimed at both the Congress and the executive branch.

Let's look first at Congress. Most of the talk there centers on invoking the War Powers Resolution. That is important—and harmful.

It's important because Congress has a role to play in formulating foreign policy. The Constitution says the Congress has the power to declare war. But what we have seen develop, especially since World War II, is a presidential policy of committing troops to combat under the commander-in-chief clause. It is important that we resolve this constitutional dispute.

The War Powers Resolution, enacted over President Nixon's veto in 1973, was an effort to do so. The War Powers Resolution tells the President to report to Congress within 48 hours after American forces are "introduced into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." Congress then has 60 days in which to approve the use of those forces. If Congress does nothing, the President must terminate the action. Presidents have noticed that only a presidential report starts the 60-day clock ticking. So, Presidents have thwarted the War Powers Resolution by simply failing to send War Powers reports to Congress.

Congress periodically debates what to do about this. The Senate has been debating War Powers and the Persian Gulf for about three weeks now. Regrettably, these Persian Gulf debates pose a danger for our own interests. There are three problems with what the Senate is doing.

First, the War Powers debate undermines our foreign policy interests in the Persian Gulf and endangers American lives by signaling to Iran that we are a nation divided. We in Congress all know that if a vote were held today, neither the Senate nor the House would pull our forces out of the Gulf. But Iran appears not to understand that. Iran believes—and its officials have publicly stated—that we are a divided and fragmented society. Iranian officials think they can force us out of the Gulf. Their view of history holds that they drove us out of Lebanon by killing 241 Marines. The various proposals that we see in the Senate for invoking War Powers all drag out the process before there is any vote on substance. The Senate is now debating whether to vote to set up a vote on the Persian Gulf 90 days from now—which will take us into next year. During that time, Iran will be doing its level best to influence the policy vote by terrorist acts. The entire process encourages what we are seeking to discourage.

The second problem is that resolutions such as the Senate has been working on are hard to word. If you write in restrictions on the use of troops, you are giving the Iranians a road map to maneuver around our forces. If you impose no restrictions at all, then you offer up a form of Gulf of Tonkin resolution. Such open-ended resolutions are like giving the White House a license to do whatever it chooses. It is this inherent contradiction that makes it so difficult to pass any resolution. Right now, I do not believe there are enough votes in the House to pass any of these resolutions.

This is a real quagmire. The Congress obviously should not ignore a major issue even though the image of fractiousness hurts our interests. Yet, the Congress can't put together a majority for any legislation it drafts. There is a way out of this morass, however. The President ought to be less concerned with turf and more concerned with policy. The President ought to comply with the War Powers Resolution by sending the requisite message to Congress that mandates a vote. Let me explain how this changes the legislative lay of the land.

Faced with a menu of potential alternatives to the status quo, as we are now, Congress will reject them all. But under the War Powers Resolution, Congress cannot fall silent and accept the status quo. Under War Powers, if Congress doesn't *endorse* the deployment of forces, those forces must be withdrawn. Faced with the requirement for choice, Congress will vote overwhelmingly to keep U.S. forces in the Gulf. And because such a vote is ordered by another piece of legislation, namely the War Powers Resolution, there would be no implication that Congress was volunteering an open-ended license for the Administration to do as it chooses.

Such a vote would strengthen the President's hand immensely. Allies who doubt he has political support would be comforted. Adversaries who think he is out on a limb would be disabused. And we would get that issue behind us. If the President does not comply with War Powers, we should look to the court case that the Democratic Study Group had initiated. I hope the House will not try to emulate the Senate by writing legislation.

The third problem with the current Senate tack is that the various proposals—and what policy debates there are—focus on the reflagging and escorting policy in the Persian Gulf. The debate doesn't really get Congress into the larger question of U.S. policy in the region. And that, of course, is the real problem. We have no policy in the Gulf.

Look at how we got into escorting. We didn't sit down, inventory our goals and capabilities, and then devise a policy. We simply reacted to the priorities of others. The Kuwaitis asked us to reflag. The Administration did not act for more than two months. Then the Russians announced they would send escorted tankers to Kuwait. Within days we decided reflagging was essential. But the Soviets were not the Administration's only concern. The Administration was also concerned about its credibility—justifiably so—in the wake of the Iran-Contra scandal. It wanted to show the Arabs we weren't siding with Iran; escorting reflagged Kuwaiti tankers was one way to do that. So we got ourselves a Persian Gulf policy because of the Russians and Ollie North. Throughout, our policy was reactive; we were responding to events and the actions of others.

So, we are in the Persian Gulf. But our purpose for being there is not well articulated. Is it to protect the free flow of oil? Then why are we only escorting 11 tankers when hundreds ply the waters of the Gulf. Are we there to protect freedom of navigation? How are we doing that when more ships have been hit by the two belligerents in the last two months than in any similar period in the war. The public comprehends that the Persian Gulf, unlike Lebanon, is important to American interests because of the oil volume there. But the public also perceives that there is a disconnect between American interests and current policy.

What we face now is a dangerously unstable political situation. The Iranian attacks have so far cost no American lives. They have instead justified retaliatory attacks that have been efficiently handled by the Navy, and that have a feel-good impact home. We can only hope the Navy will continue to handle these attacks as well as it has to date. But what happens when and if these attacks begin costing American lives—just a few at a time perhaps, but repeatedly. If Iran starts hitting Americans with regularity, the American public, out of frustration, will likely react in one of two ways: as after Pearl Harbor; or as after Tet. The temptation will be to escalate, or pull out. One hopes neither happens, but the possibility makes the situation politically unstable.

So, what should we do?

First, we should lower our profile and hunker down for an extended stay. The heavy American presence in the region causes as many problems as it solves. It waves a red flag in front of the Iranian radicals. It makes the issue into an Iran-versus-America confrontation when in fact Iran is challenging most of the world, not just us. When there is a lull, we should reduce our presence. And we should let Iran know that's what we'll do. That gives Iran a motivation for turning down the violence. Most immediately, we should avoid adding to our profile. The battleship Missouri is in the Indian Ocean and there are thoughts of moving it dramatically into the Persian Gulf. Its presence would be dramatic—but also inflammatory. We should keep the Missouri out of the Gulf. Fortunately, five of our allies have joined us in the Gulf. The more visible their activities compared to ours, the better it would be.

Second, and more importantly, we need to work toward a plan to end the escorting and reflagging on our timetable and on our terms. Right now, according to the State Department, we are there for the duration of the Iran-Iraq war. That's a pretty imprecise calendar. The public needs a clearer idea about the time and the terms under which our escort service will end. Without that, it will be very hard to sustain public support if the going gets tough.

So, how do we bring the reflagging and escorting to a conclusion?

One way, as the State Department has noted, is to end the Iran-Iraq war. That is what's behind the ongoing efforts in the UN and the assorted resolutions there. Those efforts are important, but we cannot count on their success. Hatreds run deep in the Middle East, and the Iran-Iraq War could make the Hundred Years War look like a skirmish.

Two other policies come to mind—a short-term one we cannot control; and a long-term one that is beyond Iran's ability to effect.

The first is a policy of announcing an end to the reflagging and escorting once a ceasefire—formal or informal—takes hold. There is talk in the United Nations of accepting an Iranian proposal to go to an informal, unannounced, but nonetheless real ceasefire for a period of time. There will be a temptation for this Administration to keep up the escort service because of doubts the informal ceasefire will hold. Instead, we should end the escort service as soon as the ceasefire takes hold.

The ceasefire might collapse, however. We should go back in—but we should reenter the Gulf the way we should have entered it in the first place last spring—as part of a multinational operation. We should begin now talking with the Europeans and others about forming such a force to protect non-belligerent shipping—not just 11 tankers—in the event the ceasefire fails.

Of course, there may never be a ceasefire. We need a policy for ending the reflagging and escorting even if the war continues. One answer is pipelines. If pipelines are carrying the oil to points outside the Persian Gulf, there will be no need to escort tankers. Iraq has already eliminated its dependence on tankers by building a series of pipelines. Other pipelines already can take about one-third of the oil produced in the Gulf by non-bellingerents. Another three pipelines could carry out almost all the rest. It would take money and time. But it can be done. And we should have been moving in this direction long ago.

These are only three suggestions. Others can no doubt come up with more. The point is that we need a policy that guides us visibly toward the end of the Persian Gulf escort service if the public is to be expected to continue supporting the effort—especially if we are going to see Iranian attacks that take American lives, a development we must plan for even while praying against.

There is yet another issue to ponder. Once the escorting ends, American interest in the Persian Gulf is likely to fade. We would return to that era when stories about the region were used as filler in the newspapers. That's just what the Gulf Arabs fear—that we will go away, leaving them with few defenses and a vicious snake rattling around in their backyard. Iran will not go away, and the Persian Gulf is too important for us to ignore.

We need to step back from the narrow issue of reflagging and escorting. We need to ask ourselves a very basic and fundamental question—*the* basic and fundamental question. Just what is the core problem in the Persian Gulf region?

The problem is not the 11 tankers the administration got hung on this spring—certainly not when there are hundreds of tankers plying the Gulf and Iran busies itself shooting at the many that aren't escorted rather than the few that are.

The problem is not simply endangered oil supplies—although we obviously have a major national interest in seeing that oil supplies are not interrupted.

The problem isn't even the ongoing Iran-Iraq war. The war isn't our problem. It is the result of our problem.

The problem is: Iran and its revolutionary messianism.

Iran wishes to give the entire world the benefits of its revolution—even if the rest of the world isn't interested in receiving those benefits. This is neither novel nor surprising. Revolutions tend to be messianic. Revolutionaries tend to think they have the true word. That was true after the French revolution, the Russian revolution, the Egyptian revolution, the Cuban revolution. European writers of 200 years ago said it was the problem with the American revolutionaries. Fortunately, we did not try to impose our revolution on Europe by force and subversion, only by way of example. But most revolutionaries start out using force and subversion to proselytize others.

The danger of the Iranian revolution is its focus on destabilizing the Islamic world in general and the neighboring Arab states in particular. In Bahrain, a majority is Shiite, as in Iran. In Kuwait, Iraq and Lebanon, there are large Shiite minorities. But those aren't the only areas of concern. Throughout the Islamic world, there are disaffected minorities looking for a cause and a charismatic leader that they have lacked since the passing of Nasser and Nasserism. Tehran is nursing these people with a philosophy that says America is the source of all that ails them and an Islamic revolution is the scourge that will cure them.

The world now faces three alternatives with regard to Iran's revolutionary messianism:

We can ignore it—but that is really no choice since Iran forces itself upon us.

We can suppress it—but that's a gross overreaction that would require an invasion and risk a major bloodletting.

We can contain it. And that is the strategy we should follow for dealing with the Islamic Republic of Iran. Containment can't work for centuries, but it can work for years. And that is what we need. It is in the nature of revolutions that they mellow with time. Iran's revolution may prove to be the exception, but I doubt it. Eventually, revolutionary fervor wears thin. Iran's economy is in a shambles. But the revolution's supporters are still riding an emotional wave. In time, they will come down off that emotional high and start expressing narrower interests—jobs, health care, housing. The Iranian revolution will likely follow the path of other revolutions and focus inward. We need a strategy to carry us from the era of messianism to the era of mellowness—hopefully a strategy that will help speed that process.

Our strategy, therefore, should be containment. The challenge is two-fold: to mobilize the world behind such a strategy; and to convince Iran that the world is not about to allow the Iranians to export their revolution by force or subversion.

This must be a world effort, not merely an American effort. Right now Iran thinks that we are the only serious power impeding its progress. We must disabuse Iran of that. Any number of medium sized countries could quietly tell Iran in diplomatic approaches that they are unhappy with Iranian policies and would feel pushed toward joining an oil embargo against Iran if its policies did not change. If all Iran sees as its enemy is the United States, a major but very distant power, it will feel—as it feels today—that it can simply outwait us because we lack the interest and patience to see it through.

Now this means we face a difficult decision—because a true worldwide effort by definition includes the Soviet Union. This is not going to be easy to accept. Afterall, it was to counter the Soviets that we started reflagging in the first place. But the Administration policy of shunning the Soviets simply encourages them to play the spoiler role and make life tougher for us. And it gives Tehran the opportunity to play one superpower off against the other. If we are going to contain Iran, we have to do it with the Soviets—they are simply too important, too large, and too close to Iran to exclude.

The most common argument against our joining with the Russians is that they will thereby gain influence and permanent bases in the region. But the Gulf Arab countries, which only recently achieved independence, are unlikely to be interested in compromising their independence for Moscow's benefit. It is ironic to pick up a newspaper and see one article that complains the Arabs are so sensitive about their sovereignty that they won't give enough help to our Navy's efforts on their behalf, and then see another article that suggests that if we allow the Soviet Navy in the Gulf, those same capitalist, conservative, and religious Arabs would gladly hand the Russians bases.

While it is essential to include the Soviets to make containment work, they are not a special player in the Gulf. I fear some analysts too readily credit Moscow with a uniquely strong position. It is now conventional wisdom that we occupy a powerful position in the Arab-Israeli dispute because only we—of the two superpowers—can talk to both sides, and that Moscow occupies a powerful position in the Iran-Iraq dispute because only Moscow can talk to both sides. This is a mis-reading. We enjoy a unique position in the Arab-Israeli conflict because the Arabs know that only Washington can pressure Israel to make concessions. They know Israel is dependent on us for arms, money and sustenance. Moscow has no such leverage. In the Iran-Iraq dispute, Moscow can talk to both sides, but it can't threaten to cut Iran off from major arms supplies or foreign aid. In fact, Moscow wants more from Iran than vice versa. Moscow wants cheap natural gas from Iran, and it wants Iran to promise not to proselytize among Soviet Moslems. We have no leverage over Iran. But neither does Moscow.

So, for long-range policy objectives in the Gulf, we need to face up to the necessity of bringing the Soviets in—not as a special player, but as one in a group of players. At some point we need to test Gorbachev's willingness to be a contributor rather than a spoiler in this world. Why not try it with Iranian policy? We gain if he does contribute. And if he fails to produce on his promises, we also gain by virtue of demonstrating that.

World unity is essential to containing Iran. Keeping unity will be difficult and frustrating. We lose something by coordinating with other countries—not just the

Soviets, but the Chinese and the French and Germans, et cetera. We lose simplicity and flexibility. When a policy is made by an alliance, you can't shift tactics rapidly. You have to water down positions to keep the most reticent members on board. You have to invest a lot of time in diplomatic contacts. It's not easy. It can be frustrating. But in the end, the whole is greater than the sum of the parts. Unity has a value in and of itself because it multiplies our ability to influence events.

Ironically, with considerable help from Iran, we are actually beginning to move down this track. Last spring when we sought to convince two or three countries to join us in the Gulf, we got a frigid response. Then the Iranians began attacks on ships from those countries. Now five countries have joined us in the Gulf, far more than we even sought in the first place. We need to build on this to frame a group effort at containing Iran, not just the Persian Gulf aspects of Iran's foreign policies.

Mobilizing world opinion is just the first principle of containment, Convincing Iran that the world will not tolerate the violent export of its revolution comes next. That will require a carrot and stick approach.

The stick includes—but is not limited to—the threat of the use of force.

For Americans, the use of force is always politically difficult. But force serves a role in international relations, and a little force used early can often obviate the need for a lot of force later on. The trick is to apply the appropriate amount of force at the appropriate time. The tactic of imposing force at the point of the crime—as with the minelaying ships and last week's speedboat attacks—is a rational use of force. Bombing cities is a bad idea. Bombing will make the radical enthusiasts—the zealots—even more zealous. Feeding their zealotry is playing to the most radical faction within the Iranian regime, which is hardly in our interest. A discriminating use of force is an important part of a containment strategy. Indiscriminate use of force just creates more martyrs for their cause.

But force is not the only stick we have available. An arms embargo is another stick. The world, however, must clearly understand that we must be prepared not only to vote for an embargo in the UN but to enforce one as well. We need to raise the pressure on Iran's ability to import arms progressively. We started unilaterally with Operation Staunch, the effort to reduce the flow of arms to Iran. Now we are looking at a UN-imposed embargo. But the embargo will leak, perhaps seriously. So, next, under that embargo, could come ship inspections to block arms from reaching Iran's ports. Iran will still be able to make some arms—perhaps enough to keep the war going. So, in the end, the world might need to blockade Iran's oil export terminals, shutting off 95 percent of her export earnings.

This means we should be looking at two kinds of sticks. One strikes at those military capabilities that are used against us. The other threatens Iran's economic jugular. Iran knows its vulnerabilities. It knows that it exports 100 percent of its oil from only two terminals. If those two terminals are blockaded or mined, she will not be able to pay for imports of food, medicine and consumer goods, not to mention armaments. We should not resort to such brutalizing pressure now. But Iran must know that its provocations, if continued indefinitely, are driving the world in that direction.

But a stick is not enough. If all you do is proffer the stick, but give the Iranians no honorable way out, then you will find that you have to use a very big stick indeed. There must be a carrot as well. The Iranians need to be able to show something positive.

Not every country has its navy in the Persian Gulf. Germany doesn't, for example, and its foreign minister, Hans-Dietrich Genscher, appears to be trusted in Tehran. A primary goal of the diplomats like Germany's foreign minister and the UN secretary general—people who can and do talk with Iran—ought to be a hunt for ideas, policies, and fig leaves that would make it easier for Iran to alter its policies and save face.

The fig leaf that the world is concentrating on today is a tribunal that would ascertain who is responsible for starting the Iran-Iraq war. That has been an Iranian demand for years. However, it is unlikely such a tribunal will bring the result Iran wants. Any international tribunal is bound to split blame, finding that Iraq crossed the border first—but only after months of Iranian provocations, including subversion and border shelling.

Where does this lead us? Iran faces two choices. It can export its revolution by force and subversion, thereby confronting the world. Or it can export its revolution by way of example. With the set of principles I have outlined, we have the opportunity to induce Iran to shift from force to example.

The alternatives are clear.

We can withdraw—demoralizing the Gulf Arabs and signaling Iran that she is free to export her revolution without our interference.

We can pursue the present policy—one that deals only with a single aspect of the problem, one that mobilizes a limited part of the world's resources, and one that therefore encourages Iran to cause us yet more grief.

Or we can address the full problem—mobilize the efforts of other countries and confront Iran solidly so she will see she cannot profit by force and subversion.

The whole world will be the better for it.

EXAMPLES OF IRANIAN PERCEPTIONS OF THE UNITED STATES

Ali Akbar Hashemi Rafsanjani, speaker of the Iranian parliament: The Russians have a centralized policy and can make decisions they consider advisable. However, this is not true in the United States. The American leadership is antithetical and fragmented. The conflicts and differences in America—such conflicts exist in other countries as well, such as France—prevent them from making decisions they deem advisable. Rivalries create difficulties. This is what is happening in America.

Ali Khamenehi, president of the Islamic Republic, speaking at a news conference in New York last month: Any incident that might resemble another Vietnam will be considered by public opinion in the United States as a very hard, bitter and unacceptable development. Today it is us who receive the dead bodies of our sons. But if, God forbid, the day comes when your government is receiving the dead bodies of American people and delivering them to the people of the United States, the people will say to your government, "It was you who initiated this. Why did you start it?"

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 15, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 16

9:30 a.m.

Armed Services

Business meeting, to hear and consider the nomination of Stephen M. Duncan, of Colorado, to be Assistant Secretary of Defense for Reserve Affairs.

SR-222

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings on product substitution by Department of Defense contractors.

SD-342

10:00 a.m.

Energy and Natural Resources

Minerals Resources Development and Production Subcommittee

To hold oversight hearings to review the processing of oil shale mining claims and patents by the Department of the Interior under the Mining Law of 1892.

SD-366

2:30 p.m.

Appropriations

Business meeting, to mark up H.R. 2906, appropriating funds for fiscal year 1988 for military construction programs of the Department of Defense, and proposed legislation appropriating funds for fiscal year 1988 for the Department of Agriculture, rural development, and certain related agencies.

SD-192

OCTOBER 19

9:30 a.m.

Finance

Taxation and Debt Management Subcommittee

To resume hearings on the effect of current tax laws on American competitiveness.

SD-215

OCTOBER 20

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 816, S. 1026, and S. 1040, bills relating to the construction, acquisition, or operation of rail carriers, and to review the Interstate Commerce Commission consideration of railroad line sales.
SR-253

Environment and Public Works
Nuclear Regulation Subcommittee
To hold oversight hearings on the Nuclear Regulatory Commission's regulatory interface with the industry.
SD-406

Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
Technology and the Law Subcommittee
To hold joint hearings on S. 438, to modify the application of the antitrust laws to encourage the licensing and other use of certain intellectual property.
SD-226

2:00 p.m.
Armed Services
Conventional Forces and Alliance Defense Subcommittee
To resume hearings on the military balance in Europe.
SR-222

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 2629, to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native Corporations and the State of Alaska, S. 1335, to establish the City of Rocks National Reserve in Idaho, S. 1675, to provide for the establishment of the Hagerman Fossil Beds National Monument in Idaho, and H.R. 2566, to extend the term of the Delta Region Preservation Commission.
SD-366

Judiciary
To hold hearings on pending nominations.
SD-226

3:00 p.m.
Conferees
On S. 825, authorizing funds for fiscal years 1988 and 1989 for housing and community development programs.
2128 Rayburn Building

OCTOBER 21

9:00 a.m.
Rules and Administration
To hold hearings on the feasibility of providing captioning for the hearing impaired of television broadcasts from the Senate Chamber; and to hold a business meeting, to consider pending administrative business.
SR-301

Select on Indian Affairs
Business meeting, to consider proposed amendments to the Indian Self-Determination and Education Assistance Act (P.L. 93-638), and S. 795, San Luis Rey Indian Water Rights Settlement Act.
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings on activities of the Foreign Commercial Service, Department of Commerce.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings on government handling of Soviet and communist bloc defectors.
SD-342

Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To hold hearings on competition in the pharmaceutical drug industry.
SD-226

10:00 a.m.
Environment and Public Works
Water Resources, Transportation and Infrastructure Subcommittee
To resume hearings to review infrastructure issues.
SD-406

Foreign Relations
To hold hearings on the nominations of William C. Harrop, of New Jersey, to be Ambassador to the Republic of Zaire, James B. Moran, of Virginia, to be Ambassador to the Republic of Seychelles, Robert M. Pringle, of Virginia, to be Ambassador to the Republic of Mali, and David H. Shinn, of Washington, to be Ambassador to Burkina Faso.
SD-419

OCTOBER 22

9:30 a.m.
Energy and Natural Resources
To resume hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

Foreign Relations
African Affairs Subcommittee
To hold hearings to review U.S. policy toward South Africa.
SD-419

10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition and Investigations Subcommittee
To hold joint hearings with the House Committee on Agriculture Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition to review the quality control and fiscal sanctions system in the food stamp program.
1300 Longworth Building

Environment and Public Works
Environmental Protection Subcommittee
Business meeting, to mark up S. 675, authorizing funds for fiscal years 1988 through 1992 for programs of the Endangered Species Act, and other pending subcommittee calendar business.
SD-406

Judiciary
To hold hearings to review new Federal sentencing guidelines and proposals to delay implementing the guidelines.
SD-226

OCTOBER 23

10:00 a.m.
Finance
Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee
To hold hearings on S. 1426, to provide tax incentives to small businesses who want to establish pension plans.
SD-215

Judiciary
Immigration and Refugee Affairs Subcommittee
To hold hearings on S. 1611, to effect changes in the numerical limitation and preference system for the admission of immigrants.
SD-226

OCTOBER 27

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business.
EF-100, Capitol

9:30 a.m.
Joint Economic
Education and Health Subcommittee
To resume hearings on the competitiveness and quality of the American work force.
2359 Rayburn Building

10:00 a.m.
Energy and Natural Resources
To hold closed hearings on the status of the Department of Energy's efforts to address issues concerning the defense materials production reactors located in the United States.
S-407, Capitol

2:00 p.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on pending water resource projects of the Soil Conservation Service, Department of Agriculture.
SD-406

OCTOBER 28

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado.
SD-562

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Francis J. Ivancie, of Oregon, to be a Federal Maritime Commissioner, and Francis H. Fay, of Alaska, and William W. Fox, Jr., of Florida, both to be Members of the Marine Mammal Commission.
SR-253

OCTOBER 29

9:30 a.m.
Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings on S. 14, S. 100, S. 1769, and S. 1770, bills to reorganize the functions of the Nuclear Regulatory Commission and to establish an office of Inspector General in the NRC.
SD-406

NOVEMBER 3

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 708, to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest, Alaska.
SD-366

NOVEMBER 4

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on the implementation of the Kamehameha School/Bishop Estate Kamehameha Elementary Education Program at Rough Rock, Arizona.
SR-485

10:00 a.m.
*Commerce, Science, and Transportation
To resume hearings on safety and reregulation of the airline industry.
SR-253

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To resume hearings to review infrastructure issues.
SD-406

NOVEMBER 5

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on activities of the Federal Aviation Administration, Department of Transportation.
SR-253

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To resume hearings on S. 708, to require annual appropriations of funds to support timber management and resource conservation of the Tongass National Forest, Alaska.
SD-366

*Select on Indian Affairs
To hold oversight hearings on the implementation of Title IV, Part C of the Omnibus Drug Act (P.L. 99-570).
SR-485

NOVEMBER 10

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on implementation of the Indian Child Welfare Act (P.L. 95-608).
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

NOVEMBER 12

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

2:00 p.m.
*Select on Indian Affairs
To hold hearings on S. 1039, to review and determine the impact of Indian tribal taxation on Indian reservations and residents.
SR-485

NOVEMBER 16

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1722, to establish the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and S. 1723, to establish certain regional exhibition facilities as part of the National Museum of the American Indian.
SR-301

NOVEMBER 18

10:00 a.m.
*Commerce, Science, and Transportation
To resume hearings on safety and reregulation of the airline industry.
SR-253

NOVEMBER 19

2:00 p.m.
*Select on Indian Affairs
To hold oversight hearings to review Federal agency actions related to the implementation of the Department of the Interior's Garrison Unit Joint Tribal Advisory Committee final report recommendations, and on proposed legislation to implement the report recommendations.
SR-485

NOVEMBER 24

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1236, authorizing funds for certain programs of the Navajo-Hopi Relocation program.
SR-485

DECEMBER 2

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. Con. Res. 76, to acknowledge the contribution of the Iroquois Confederacy of Nations to the development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution.
SR-485

DECEMBER 3

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1321, to declare that the United States holds certain lands in trust for the Camp Verde Yavapai-Apache Indian Community.
SR-485